

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 YAVAPAI COUNTY, ARIZONA
 FOR THE COUNTY OF YAVAPAI

2011 DEC -6 AM 11:47 ✓

SANDRA K HARKHAM, CLERK

Stephanie Kling

STATE OF ARIZONA,)

Plaintiff,)

vs.)

Case No. V1300CR201080049

JAMES ARTHUR RAY,)

Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
 BEFORE THE HONORABLE WARREN R. DARROW

TRIAL DAY TWENTY

MARCH 23, 2011

Camp Verde, Arizona

ORIGINAL

REPORTED BY
 MINA G. HUNT
 AZ CR NO. 50619
 CA CSR NO. 8335

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 FOR THE COUNTY OF YAVAPAI
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4 STATE OF ARIZONA,)
5 Plaintiff,)
6 vs) Case No. V1300CR201080049
7 JAMES ARTHUR RAY,)
8 Defendant)
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1 APPEARANCES OF COUNSEL:

2 For the Plaintiff:

3 YAVAPAI COUNTY ATTORNEY'S OFFICE
4 BY: SHEILA SULLIVAN POLK, ATTORNEY
5 BY: BILL R. HUGHES, ATTORNEY
255 East Gurley
Prescott, Arizona 86301-3868
6

7 For the Defendant:

8 THOMAS K. KELLY, PC
9 BY: THOMAS K. KELLY, ATTORNEY
425 East Gurley
Prescott, Arizona 86301-0001
10

11 MUNGER TOLLES & OLSON, LLP
12 BY: LUIS LI, ATTORNEY
13 BY: TRUC DO, ATTORNEY
355 South Grand Avenue
Thirty-fifth Floor
Los Angeles, California 90071-1560
14

15 MUNGER TOLLES & OLSON, LLP
16 BY: MIRIAM L. SEIFTER, ATTORNEY
560 Mission Street
San Francisco, California 94105-2907
17
18
19
20
21
22
23
24
25

1 Proceedings had before the Honorable
2 WARREN R. DARROW, Judge, taken on Wednesday,
3 March 23, 2011, at Yavapai County Superior Court,
4 Division Pro Tem B, 2840 North Commonwealth Drive,
5 Camp Verde, Arizona, before Mina G. Hunt, Certified
6 Reporter within and for the State of Arizona.
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PROCEEDINGS

THE COURT: The record will show the presence of the defendant, Mr. Ray, the attorneys, the jury. And the bailiff is now summoning the witness, Ms. Martin.

Ms. Martin, please come forward and resume the witness stand. Of course, you remain under oath throughout your testimony.

THE WITNESS: Yes.

THE COURT: Ms. Polk, when you're ready.

MS. POLK: Thank you, Your Honor.

DIRECT EXAMINATION (Continued)

BY MS. POLK:

Q. Good morning, Ms. Martin.

A. Good morning.

Q. When we left off yesterday afternoon, you were just beginning to talk about the Marzvaan sisters. How many sisters were there?

A. Two.

Q. And how did you meet them?

A. I met them at Angel Valley, at the event.

Q. In the October event?

A. Yes.

Q. During that week did you become aware specifically of the sisters at some point?

A. Yes, I did.

Q. What day was it?

A. It was the evening when we started the Samurai Game.

Q. What event had taken place before you became aware of the sisters?

A. I'm sorry?

Q. What was going on in terms of the activities of the Spiritual Warrior seminar right before you became aware of the sisters?

A. We had begun the Samurai Game.

Q. Had Mr. Ray spoken to the participants about the Samurai Game at that point?

A. Yes.

Q. Do you recall what room you were in?

A. We were in the Crystal Hall.

Q. What had Mr. Ray said to the participants about the Samurai Game?

A. He explained to them how the game was played and everybody's role in the game.

Q. And what did Mr. Ray say to the participants about his role?

A. His role was God. He played God.

Q. And had he told the participants what would happen to them if they had -- if they

disobeyed one of the rules of the game?

A. They would be killed.

Q. Did he tell the participants who would kill them?

A. God would kill them.

Q. And God was who?

A. James Ray.

Q. What was it that brought your attention to the Marzvaan sisters?

A. One of sisters was killed, and she wasn't permitted to move according to the game. And she wanted to go to the restroom, and she became very upset about the fact that she couldn't just get up and go and move about the way she wanted to.

Q. How did you know that she was upset?

A. She came to me and walked straight up to me and said, I'm not doing this. This is ridiculous.

Q. And what happened next?

A. She walked out of the room. She went to the bathroom, and she came back and she said, I want to go get my sister, and we're leaving. This is ridiculous.

Q. And then what happened?

A. The Dream Team people would not allow her

back into the room.

Q. Where was the sister? Do you know the names of the two sisters?

A. No, I don't.

Q. Does Simone and Soheyla ring a bell with you?

A. Yes.

Q. Do you know which one of the sisters had approached you?

A. No.

Q. Where was Mr. Ray when the sister approached you upset?

A. He was inside of the Crystal Hall.

Q. Where did you encounter the sister who was upset and had used the bathroom in violation of the rules?

A. I was inside the Crystal Hall when she walked up to me.

Q. And when she spoke to you, what happened next?

A. She stormed out of the room. And I let Josh know what had happened.

Q. And where was Mr. Ray?

A. He was in the room -- you know -- participating in the game.

1 Q. Was he aware of the sister who had
2 stormed out of the room?

3 MR. KELLY: Your Honor, object. Lack of
4 foundation.

5 THE COURT: Sustained as to foundation.

6 Q. BY MS. POLK: Did you see Mr. Ray react
7 in any way to the sister that had stormed out of
8 the room?

9 A. No.

10 Q. Did you see him acknowledge in any way
11 that she had left the room?

12 MR. KELLY: Your Honor, objection. Lack of
13 foundation, asked and answered.

14 THE COURT: Overruled.

15 Again, that calls for a yes or no answer,
16 if you can do that.

17 THE WITNESS: Can you ask it again.

18 Q. BY MS. POLK: What did you see Mr. Ray
19 do, if anything, when the sister stormed out of the
20 room?

21 A. I did not see a reaction.

22 Q. Did Mr. Ray himself ever come out of the
23 room?

24 A. No.

25 Q. What happened next?

1 A. I went outside the room. And I saw that
2 Megan had taken her to the side and was talking to
3 her about not leaving the event.

4 Q. And where were you when you saw that?

5 A. I was just outside the Crystal room.

6 Q. Did you hear how the sister responded to
7 Megan?

8 A. Yes. She said --

9 MR. KELLY: Your Honor, objection.

10 I'll withdraw the objection.

11 THE COURT: You may proceed with your answer,
12 ma'am.

13 THE WITNESS: She said, I want to get my
14 sister. She came here with me, and I want to take
15 her, and I want to leave.

16 Q. BY MS. POLK: Where was the second
17 sister?

18 A. She was inside the room playing the game.

19 Q. And do you know if the second sister was
20 still alive in the game?

21 A. Yes. She was.

22 Q. What happened next?

23 A. They were -- the Dream Team members and
24 Megan told her that she could not go and get her
25 sister and that her sister was having her own

1 experience and that they would not allow her to go
2 back into the Crystal Hall to get her sister.

3 Q. Do you know who those Dream Team members
4 were?

5 A. Yes. Barbara Waters and Christine Jobe
6 stood in front of the door and would not let her go
7 back in.

8 Q. Wouldn't let the sister go back in?

9 A. Yes.

10 Q. And where were you?

11 A. I was standing between Megan, who was
12 arguing with the sister, and I was standing where
13 the two girls were blocking the door.

14 Q. Was Josh Frederickson there?

15 A. I don't recall.

16 Q. When that was going on, where was
17 Mr. Ray?

18 A. Inside the Crystal Hall.

19 Q. Still playing the game?

20 A. Yes.

21 Q. What happened next?

22 A. They refused to let her in. The sister
23 was getting loud, very upset. The girls were
24 saying that she could not go back in. It was an
25 argument. I left the area for a little bit. And

1 when I came back into the area for whatever I had
2 to do, Josh came to me and said, we need you to get
3 the sister, get them together, get them back to
4 their room, pack them up, and get them out of here
5 as quickly and quietly as possible.

6 Q. And did you do that?

7 A. That's what I did. Yes.

8 Q. How long did that all take?

9 A. Probably 20 minutes.

10 Q. Did you gather up the second sister who
11 was still playing the game?

12 A. Yes.

13 Q. And how did you do that?

14 A. I just went in there -- you know what. I
15 can't recall if I actually got her out or how she
16 ended up getting out of the room. I know that
17 after some arguments they let her leave finally.
18 But it was a fight.

19 Q. And it was a fight between whom?

20 A. Megan and the sister, basically. Megan
21 refusing to let her take the sister. And she said
22 something like, if you don't let me in, I'm going
23 to go in and I'm going to get her. And she was
24 very irate. So later, Josh came to me and said,
25 get them out quickly.

1 Q. What was your interaction with the
2 sisters at that point?

3 A. I put them in the golf cart, drove them
4 to their rooms -- they weren't rooming together --
5 helped them pack up their things. I told them I
6 felt sorry they weren't happy. And I tried to do
7 some damage control on them. And then I drove them
8 and their belongings to their car and, basically,
9 escorted them off the property.

10 Q. You say: Damage control. What
11 specifically did you do?

12 A. I was trying to calm them down. They
13 were so upset. They were so angry. They felt --
14 they were telling me that they felt that they were
15 being forced to stay in a situation that they
16 didn't want to stay in.

17 They thought it was too much work to try
18 to leave when they wanted to. They were very
19 angry. And I'm trying to say calm down. It's
20 okay. If you want to leave -- you know -- you
21 should be able to leave. And I'm sorry you had to
22 go through this. I'm really, really sorry that it
23 was hard for you to get your sister. I'm sorry
24 that you're not happy and that you're leaving.

25 I was doing that type of damage control

1 with them.

2 Q. How long was the -- from the beginning of
3 the -- from the beginning -- at the point in time
4 where you became aware of the sister who wanted to
5 leave, how long was her interaction with the Dream
6 Team members at the Crystal Hall before you were
7 then driving them to their room?

8 A. I would say that was half an hour, 40
9 minutes, maybe.

10 Q. Forty minutes for her to get her sister?

11 A. Yes. The altercation, the discussion,
12 and the -- how they decided to resolve it, I think
13 that would have been about 40 minutes.

14 Q. Do you know how Josh Fredrickson became
15 involved?

16 A. When she came to me initially and told me
17 this is not right and I'm out of here kind of
18 thing, I went to Josh immediately and I told him
19 what had happened. That's how he became involved.

20 Q. And do you know if the Marzvaan sisters
21 had attended prior events put on by Mr. Ray?

22 MR. KELLY: Objection. Lack of foundation,
23 hearsay.

24 THE COURT: Again, that would call for a yes
25 or no. We'll proceed in that fashion.

1 THE WITNESS: No.

2 Q. BY MS. POLK: You do not know?

3 A. I do not know.

4 Q. We have heard testimony about an exercise
5 called "recapitulations." When did you learn about
6 this activity?

7 A. At that event.

8 Q. Who did you learn about it from?

9 A. Megan.

10 Q. Did you learn what the purpose of the
11 recapitulations was?

12 A. Yes.

13 MR. KELLY: Your Honor, objection. Lack of
14 foundation. This witness is not a participant. It
15 is cumulative.

16 THE COURT: Sustained.

17 Q. BY MS. POLK: Did you observe -- did you
18 hear Mr. Ray talk to the participants about the
19 recapitulations?

20 A. No.

21 Q. Did you observe participants writing or
22 engaging in this exercise?

23 A. Yes.

24 Q. Where did you observe participants
25 engaging in this exercise?

1 A. Mostly in the dining hall.

2 Q. At what time of day or night?

3 A. All times of day and night.

4 Q. Were you on a night shift?

5 A. I was not.

6 Q. And how late in the night did you stay up
7 with respect to this exercise?

8 A. I didn't have involvement in that
9 particular exercise.

10 Q. You said you observed participants at
11 nighttime engaged in this exercise.

12 A. Yes. I did.

13 Q. What did you observe about participants
14 when they were doing recapitulations?

15 A. They spent countless hours in various
16 places around the facility doing that. I was up
17 anyway doing my duties, so I was there in the room
18 seeing them working in the recapitulations.

19 Q. Did you observe participants emotional
20 during the exercise?

21 A. In the Crystal Hall I did.

22 Q. Tell the jury what you observed.

23 A. I saw them discussing or I heard them
24 discussing the recapitulations journals and their
25 findings in it with Mr. Ray. And there was a lot

1 of crying. There was a lot of breakdowns. There
2 was a lot of emotion in the room.

3 Q. And in response to that, did you hear
4 Mr. Ray talk about breakdowns?

5 A. Yes.

6 Q. What did you hear him say?

7 MR. KELLY: Your Honor, I'm going to object.
8 Lack of foundation and time, who was involved,
9 et cetera.

10 THE COURT: As to time, sustained as to
11 foundation.

12 Q. BY MS. POLK: When did you observe
13 interaction between participants who were crying
14 and Mr. Ray?

15 A. When?

16 Q. Yes.

17 A. In the Crystal Hall.

18 Q. And do you recall what day?

19 A. No.

20 Q. Were you in the Crystal Hall on multiple
21 occasions?

22 A. Yes.

23 Q. Did you observe interactions between
24 Mr. Ray and participants who were crying on more
25 than one occasion?

1 A. Yes.

2 Q. Do you recall how many occasions?

3 A. No. It was sort of a continuing theme.

4 Q. Speaking of a theme, did you hear Mr. Ray
5 talk about a theme with respect to breakdowns that
6 participants were having?

7 A. Yes.

8 MR. KELLY: Your Honor, objection to the form
9 of the question. It's leading.

10 THE COURT: If you can answer that, you may.

11 THE WITNESS: Yes.

12 Q. BY MS. POLK: Tell the jury what you
13 observed and heard.

14 MR. KELLY: Your Honor, I'd still object.
15 Lack of foundation as to time.

16 THE COURT: Overruled.

17 You may answer that if you can.

18 THE WITNESS: Yes. The theme of the
19 recapitulation was sex and their sexual experiences
20 throughout their lives.

21 Q. BY MS. POLK: Did you hear Mr. Ray
22 specifically talk to participants about
23 breakthroughs and breakdowns?

24 MR. KELLY: Your Honor, I'm going to object.
25 It's leading.

1 THE COURT: Sustained.

2 Q. BY MS. POLK: For a participant that was
3 having a breakdown, did you hear Mr. Ray talk to
4 them?

5 A. Yes.

6 Q. On what occasion?

7 A. When he was giving his talk in the
8 Crystal room. On the syntax I should be able to
9 tell you.

10 Q. Let me give you that syntax back, then.
11 I'll approach you with Exhibit 255.

12 A. Monday, October 5th, we -- throughout the
13 syntax you will find different references to the
14 recapitulation. We followed the syntax fairly
15 closely at every event. So just not going over it
16 very finely, I came across here on October 5th at
17 11:15 a.m. we had recapitulation in the meeting
18 room -- meaning the Crystal Hall.

19 And that's one of the times that we had
20 the discussion or I overheard their discussion
21 about their findings in their recapitulation
22 journal.

23 Q. In that particular time, that particular
24 exercise, was that a group exercise with Mr. Ray?

25 A. Yes.

1 Q. With respect to the recapitulation?

2 A. Yes.

3 Q. And specifically how would sharing occur?

4 MR. KELLY: Your Honor, I'm going to object.
5 Lack of foundation.

6 THE COURT: Sustained.

7 Q. BY MS. POLK: Were you present on Monday
8 at 11:15 for that recapitulation exercise?

9 A. I don't know.

10 Q. Were you present for any of the
11 recapitulation exercises?

12 A. I was.

13 Q. And do you know how many?

14 A. No.

15 Q. For the ones that you were present for,
16 what did that exercise look like?

17 A. People crying, James talking to them
18 about their past sexual experiences, digging
19 deeper, bringing more emotion out. Just a heavy,
20 heavy amount of emotion.

21 Q. And you used the word: James. Is that
22 Mr. Ray?

23 A. Yes.

24 Q. Did you hear Mr. Ray discuss with
25 participants as part of the recapitulation

1 exercise --

2 MR. KELLY: Excuse me, Ms. Polk.

3 May we approach?

4 THE COURT: Yes.

5 Mr. Kelly?

6 (Sidebar conference.)

7 MR. KELLY: Judge, my concern is that I
8 continue to object based on lack of foundation.
9 Given her responses, she cannot provide specific
10 dates and times when she observed these behaviors.

11 Secondly, it's hearsay. She's talking
12 about responses to my client's statements without
13 the specific date and time or the speaker.

14 And, finally, it's highly prejudicial and
15 has marginal relevance to the crime of
16 manslaughter. And so she's not a participant.
17 She's a JRI employee. And she's walking around the
18 premises providing opinion as to what she saw. I
19 believe it's in total highly prejudicial to my
20 client.

21 THE COURT: Ms. Polk?

22 MS. POLK: Your Honor, first of all, this
23 witness has laid the appropriate foundation. It's
24 not necessary that she remember the exact date and
25 time in order to testify about something that she

22

1 has observed or she has heard.

2 She has given us an approximate date and
3 time. She has testified that she was present for
4 one -- at least one or more of these sessions where
5 there is this sharing.

6 And specifically what she heard Mr. Ray
7 say to participants on numerous occasions is that
8 in order to have a breakthrough, you have to have a
9 breakdown.

10 I'm not trying to elicit testimony about
11 the experiences or the sexual experiences
12 specifically about what witnesses shared or what
13 Mr. Ray said back to them. But in terms of the
14 mind-set of the victims and the participants in the
15 sweat lodge, this is additional evidence of Mr. Ray
16 telling them you have to have a breakdown -- you
17 have to breakdown in order to have this
18 breakthrough. I have laid the appropriate
19 foundation, and this witness should be allowed to
20 testify as to what she heard Mr. Ray say.

21 It's not offered to prove the truth that
22 you have to have a breakdown in order to have a
23 breakthrough. It's probably not true. But it is
24 offered to prove the mind-set of participants and
25 victims inside the sweat lodge.

1 This is the leader of these events

2 telling participants on numerous occasions you have
3 to have a breakdown in order to have a
4 breakthrough.

5 MR. KELLY: Judge, why don't we hear from the
6 testimony of a participant who could, perhaps,
7 connect what my client had said with the state of
8 mind of decedents versus someone who is wandering
9 through the hall watching, providing opinion.

10 THE COURT: I've said before the trial is
11 proceeding with the concept that it's important to
12 understand why people acted the way they did in the
13 sweat lodge, and there is a background to this.

14 There may be larger legal issues
15 involved, but that's how the trial's proceeding.
16 So there is relevance.

17 One thing, Ms. Polk, the foundation is so
18 sketchy. I have no idea if she's talking about one
19 person, two persons. I just -- it's very, very
20 vague.

21 And I know at some point there is a role
22 for cross-examination in this area too. But I
23 think that the foundation is quite thin. And to --
24 you know -- is this a one-time occurrence or what?

25 And then also there is not

24

1 acknowledgment. There is no need to go into this
2 in any depth. It has to do with your view, the
3 state's view, of his teachings and what was said to
4 the people, what were the understandings of all of
5 the activities, essentially.

6 So the foundation is thin. And so at
7 this point -- I don't remember the last question
8 that's pending. I don't know what that was.

9 Mr. Kelly?

10 MR. KELLY: I'm objecting for all the reasons
11 I've articulated, Judge. And I would point out
12 with regards to foundation, she looked at the
13 syntax and said recapitulation was on Monday,
14 October 5th. I can't tell you whether or not that
15 was the day. That's clear lack of foundation.

16 THE COURT: At this time the foundation is
17 just too thin. But it's a relevant area.

18 Thank you.

19 (End of sidebar conference.)

20 THE COURT: Before we start, I would like
21 to -- in case we're going to be needing the screen.

22 You may proceed when you're ready.

23 MS. POLK: Thank you, Your Honor.

24 Q. Ms. Martin, would you take a moment to
25 look through the syntax and inform yourself of how

1 many times during Spiritual Warrior 2009 Mr. Ray
2 conducted a recapitulation exercise. Take a moment
3 and look at the syntax.

4 MR. KELLY: Your Honor, the document speaks to
5 itself -- excuse me. Speaks for itself.

6 THE COURT: Overruled in this situation. I'll
7 allow reference.

8 Q. BY MS. POLK: Are you still looking?

9 A. **I thought he made an objection to it.**

10 THE COURT: Go ahead and review the document.

11 THE WITNESS: I count 13 references to
12 journaling and recapitulation.

13 Q. BY MS. POLK: I'm actually going to hand
14 you Exhibit 253, which has been admitted into
15 evidence, and just have you tell me the difference
16 between 255 and the document you just looked at and
17 the one that was actually admitted yesterday into
18 evidence. Can I direct your attention to the dates
19 that are down in the corner.

20 A. **Okay. Well, first of all, this is**
21 **double-sided and this is single-sided. The date is**
22 **September 28th, '09; and this one is**
23 **September 17th, '09.**

24 Q. Were you given numerous syntaxes during
25 that week?

1 A. **Yes. We work on it. It's a work in**
2 **progress.**

3 Q. And is 255 different from 253 other than
4 there is a more recent date on one of them?

5 A. **This isn't a very good copy.**

6 Q. Let me have you do this: Will you look
7 at Exhibit 253, the exhibit that is the more recent
8 copy of the syntax. And for the same question
9 determine for yourself how many times there was a
10 recapitulation or journaling exercise during
11 Spiritual Warrior 2009.

12 MR. KELLY: Your Honor, again, I'm going to
13 object to the form of the question. The exhibit
14 speaks for itself and whether there are actually
15 the same number of times as the exhibit.

16 THE COURT: For purposes of focusing the
17 testimony, I'm going to allow the witness to refer
18 to it.

19 So go ahead and do that.

20 THE WITNESS: I count 15. There was a Post-it
21 on part of it. I couldn't read the whole thing.

22 Q. BY MS. POLK: And, Ms. Martin, were you
23 present on at least one occasion during a
24 recapitulation exercise?

25 A. **Yes.**

1 Q. Do you believe you were present for more
2 than one recapitulation exercise?

3 A. **Yes.**

4 Q. How many do you believe you were present
5 for?

6 A. **I would say the majority of them. I**
7 **wouldn't be in the room the whole time. Sometimes**
8 **I would leave and come back. But I was there for**
9 **the majority of it.**

10 Q. And when you were present, your testimony
11 is you observed participants crying?

12 A. **Yes.**

13 Q. I'm not asking you to tell the jury about
14 the event, the experience that a participant was
15 emotional about or Mr. Ray's response. My question
16 is, did you hear Mr. Ray respond about the
17 experience itself of having an emotional breakdown?

18 A. **You mean the big picture of that?**

19 Q. Yes.

20 A. **No.**

21 Q. Did you hear Mr. Ray teach about
22 breakthroughs?

23 MR. KELLY: Your Honor, objection. It's
24 leading.

25 THE COURT: Overruled.

1 You may answer that.

2 THE WITNESS: At that event I don't recall.

3 Q. BY MS. POLK: Did you during Spiritual
4 Warrior 2009 hear Mr. Ray teach about
5 breakthroughs?

6 MR. KELLY: Your Honor, asked and answered.

7 THE COURT: You may answer that.
8 Overruled.

9 THE WITNESS: That was always a theme,
10 breakthroughs.

11 Q. BY MS. POLK: And what did you hear
12 Mr. Ray say about breakthroughs?

13 MR. KELLY: Your Honor, objection.

14 THE COURT: Sustained.

15 Q. BY MS. POLK: When did you hear Mr. Ray
16 talk about breakthroughs?

17 A. **Regularly.**

18 Q. At Spiritual Warrior 2009 was it a theme?

19 A. **Yes.**

20 MR. KELLY: Your Honor, objection. Lack of
21 foundation.

22 THE COURT: And leading. Sustained.

23 Q. BY MS. POLK: When was it a theme?

24 A. **Throughout the events.**

25 Q. And specifically at Spiritual

1 Warrior 2009?
 2 MR. KELLY: Your Honor --
 3 THE COURT: Sustained.
 4 Q. BY MS. POLK: When did you hear Mr. Ray
 5 teach about breakthroughs?
 6 A. **Often. That was, basically, what he**
 7 **taught, having breakthroughs.**
 8 Q. And you say that is, basically, what he
 9 taught. When was it, basically, what he taught?
 10 A. **That you have to have a breakdown before**
 11 **you can have a breakthrough.**
 12 Q. Did you become familiar during the
 13 Spiritual Warrior 2009 event with an activity
 14 called "Holosync"?
 15 A. **Yes.**
 16 Q. Were you familiar with that activity
 17 prior to Spiritual Warrior 2009?
 18 A. **No.**
 19 Q. How did you become familiar with it?
 20 A. **On the briefing that Megan gave me prior**
 21 **to Spiritual Warrior.**
 22 Q. And are you able to recall, without
 23 looking at the syntax in front of you, how many
 24 times during Spiritual Warrior 2009 did Mr. Ray
 25 lead the participants in the Holosync exercise?

1 A. **Often. Sometimes twice a day, sometimes,**
 2 **I think, even three times a day.**
 3 Q. Do you recall how long the sessions were
 4 for?
 5 A. **I believe one and a half hours,**
 6 **thereabouts, without looking at the syntax.**
 7 Q. Did you see Mr. Ray himself, during
 8 Spiritual Warrior 2009, engage in the Holosync
 9 exercise?
 10 A. **Yes.**
 11 Q. When did you see that?
 12 A. **At one of the many times that they did**
 13 **it. I would see him there pretty much every time**
 14 **at the front engaging in that activity.**
 15 Q. Leading it or actively participating in
 16 it?
 17 A. **It's not much to be led. So he was just,**
 18 **basically, there in the room.**
 19 Q. Did you become familiar with an exercise
 20 called "Holotropic breathing"?
 21 A. **Yes.**
 22 Q. And that was during Spiritual
 23 Warrior 2009?
 24 A. **I was made aware of that from previous**
 25 **events.**

1 Q. Was that an exercise during Spiritual
 2 Warrior 2009?
 3 A. **Yes, it was.**
 4 Q. Without looking at the syntax, do you
 5 know how often that activity was engaged in?
 6 A. **I believe we did that only once.**
 7 Q. And who led that activity?
 8 A. **James would brief everyone on how that**
 9 **worked. And then we went down to the pavilion, the**
 10 **Heart Pavilion. And, again, it was sort of a**
 11 **self-led exercise.**
 12 Q. When you say "James," do you mean
 13 Mr. Ray?
 14 A. **Yes. I'm sorry.**
 15 Q. Did you have a role in that exercise, in
 16 that activity?
 17 A. **Just in the room setup.**
 18 Q. And when the participants were engaged in
 19 that activity, what did you do?
 20 A. **We were to go around and coach the people**
 21 **on their breathing.**
 22 Q. Who taught you how to coach the
 23 participants on their breathing?
 24 A. **Megan.**
 25 Q. What were you taught to do?

1 A. **To get down to their ear, very low to the**
 2 **ground and go --**
 3 Q. And what you just did on the stand, is
 4 that how participants were suppose to breathe for
 5 this exercise?
 6 A. **Yes. For two hours they were supposed to**
 7 **do that type of breathing.**
 8 Q. Did participants do it for two hours?
 9 A. **Yes.**
 10 Q. And when was it that you would need to
 11 get down to their ear and coach them?
 12 A. **When we would see they were not doing the**
 13 **breathing.**
 14 Q. Were you told why you were to get in
 15 their ear and coach them?
 16 A. **To keep them continuing to breathe during**
 17 **that exercise, to remind them if they had forgot,**
 18 **to get them back onto the activity.**
 19 Q. Was there a drawing exercise that was
 20 part of that Holotropic breathing?
 21 A. **Yes.**
 22 Q. Explain to the jury what that was.
 23 A. **At the end of the Holotropic Breathwork**
 24 **exercise, we would slow the music down. And we**
 25 **would place a piece of paper at their head with**

1 three markers. And in the middle of the paper was
2 a mandala circle.

3 People were to turn over and wake up from
4 whatever sort of trance they were in and draw their
5 experience in the mandala.

6 Q. What's a mandala?

7 A. I'm not entirely sure what it really
8 means. It was just this round circle they drew in,
9 and I know there's something spiritual connected to
10 it, but I'm not sure what it is.

11 Q. What happened to what they had drawn and
12 the papers they had drawn on?

13 A. From that event?

14 Q. Yes.

15 A. I do not know.

16 Q. Did you observe -- you've already
17 testified about the exercise involving the Samurai
18 Game. Were you familiar with that exercise prior
19 to Spiritual Warrior 2009?

20 A. No, I was not.

21 Q. And did you know whether Mr. Ray was
22 licensed to conduct the Samurai Game?

23 MR. KELLY: Your Honor, objection.

24 THE COURT: Sustained.

25 Q. BY MS. POLK: As an employee of James Ray

1 International, were you ever familiar with any
2 licensing that Mr. Ray may have had to conduct any
3 activities?

4 MR. KELLY: Your Honor, objection.

5 THE COURT: Sustained.

6 MR. KELLY: Be stricken?

7 THE COURT: And that is granted.

8 Q. BY MS. POLK: We've heard testimony about
9 the Samurai Game, Ms. Martin. Did you have a role
10 in that game?

11 A. Yes.

12 Q. What was your role?

13 A. I was an angel of death.

14 Q. Can you describe generally for the jury
15 what the atmosphere was like surrounding the
16 playing of this game.

17 MR. KELLY: Your Honor, object. Vague.

18 THE COURT: Sustained.

19 Q. BY MS. POLK: Can you describe what you
20 saw in terms of the playing of this game. What did
21 you see?

22 A. I saw the Dream Team and the few JRI
23 employees -- we all wore black angel costumes.
24 Basically, I bought them all at a costume store for
25 Scream. It was the Scream costume.

1 Q. You bought the costumes?

2 A. Yes.

3 Q. Where did you buy the costumes?

4 A. In San Diego in preparation for this.

5 And there were also some still in the supply, so I
6 did buy some more.

7 Q. You said Scream?

8 A. There's a movie called "Scream" years
9 ago. And so we bought a lot of those. It was all
10 black all the way down and went to here. And it
11 covered half of the face. And we brought make up.
12 So we made our faces white. And we blacked out our
13 eyes and lips. Everybody dressed as Angels of
14 Death.

15 Q. How did Mr. Ray dress?

16 A. He dressed in all white.

17 Q. Did you buy that costume as well?

18 A. That was already there.

19 Q. What did that costume look like?

20 A. It was white robes. It was meant to be
21 God. I think -- I'm not sure. I don't recall
22 where the costume came from.

23 Q. Was there anything on Mr. Ray's head?

24 A. I don't recall.

25 Q. Other than the costume for God and the

1 costume for angels of death, were there other
2 costumes for the game?

3 A. Yes. For the participants there were
4 samurai. So some people -- if they were, like, a
5 leader of a samurai, they wore something showing
6 that they were that.

7 There were ninjas. So there was a ninja
8 costume, which is, I think, just a bandana -- a
9 black bandana on their head. They had different
10 things that signified who was playing what role in
11 the game.

12 Q. Do you recall how long the game lasted
13 for?

14 A. Several hours.

15 Q. For those who were pronounced dead by
16 Mr. Ray, what happened to them?

17 A. They were dragged to the cemetery.

18 Q. Where was the cemetery?

19 A. We had made a cemetery in the Heart
20 Pavilion. So we took chairs and kind of cordoned
21 off a particular area. And they were loaded onto
22 the golf cart.

23 If they were killed in the dining hall or
24 the Heart Pavilion, they were brought down to --
25 they were brought -- everybody was brought down to

1 the Heart Pavilion from the Crystal Hall or the
2 dining hall. So anywhere that they were killed,
3 they would be put into a cemetery and laid there.

4 Q. Now, you just mentioned the Crystal Hall
5 and the dining hall. Did this game take place in
6 multiple locations?

7 A. Yes.

8 Q. And how come?

9 A. It was an active game. I don't know why
10 they had it that way. But that was -- it took
11 place where people could move about the property.

12 Q. Do you recall what room it started in?

13 A. I believe that it started in the Crystal
14 Hall, like the main hall where the seminars were
15 held, I believe.

16 Q. And at some point it moved to the dining
17 hall?

18 A. I think we broke for dinner and somehow
19 or another they were able to go. But they weren't
20 able to speak. There was something about they
21 weren't able to speak. So there was a lot of -- I
22 can't recall that part of game.

23 Q. Where did the game end?

24 A. In the Heart Pavilion.

25 Q. For those who were pronounced dead and

1 taken to the cemetery at the Heart Pavilion, do you
2 recall who it was that was transporting them or
3 taking them there?

4 A. The angels of death were transporting and
5 taking them to the cemetery. And then they would
6 have the keepers of the -- they had a word, the
7 grim reaper, that they would be there watching to
8 make sure that the participants that had been
9 killed that were in the cemetery did not move a
10 muscle.

11 Q. What happened for those who were dead at
12 the cemetery if they moved a muscle?

13 MR. KELLY: Your Honor, objection. Lack of
14 foundation. She's the angel of death.

15 THE COURT: Sustained.

16 Q. BY MS. POLK: Do you know what happened
17 to participants who had been declared dead and who
18 had been taken to the cemetery if they moved a
19 muscle?

20 A. Yes.

21 MR. KELLY: Your Honor, objection. Lack of
22 foundation.

23 THE COURT: She said, yes. She answered the
24 question that stands.

25 Q. BY MS. POLK: How do you know that,

1 Ms. Martin?

2 A. How do I know that they were brought --
3 I'm sorry. Repeat the question again.

4 Q. I'm asking how do you know what happened
5 to participants who were at the cemetery who moved
6 a muscle in violation of that rule?

7 A. I witnessed what happened.

8 Q. Where were you when you witnessed what
9 happened?

10 A. Mostly in the Heart Pavilion. I was also
11 in the dining hall. I'd seen many instances of
12 that.

13 Q. What did you witness happen when somebody
14 moved in violation of that rule?

15 A. They would be brought before God.

16 Q. Who was God?

17 A. James Ray.

18 Q. Okay.

19 A. And they would be -- and he would kill
20 one of their townspeople as a penalty for breaking
21 the death code. It was a dishonor to your tribe if
22 you had moved during death. You would be brought
23 up in front of God, and he would kill one of the
24 people that were still alive.

25 Q. How did participants take this game?

1 MR. KELLY: Objection, Your Honor.

2 THE COURT: Sustained.

3 Q. BY MS. POLK: Did you observe, for
4 example, a participant who was brought before God
5 from the cemetery for having moved? Did you
6 specifically observe that sort of transaction?

7 A. Yes.

8 Q. And what did you observe about that --
9 when you were there, you observed a participant who
10 had been killed resulting in a team member now
11 being killed. What did you observe?

12 MR. KELLY: Your Honor, objection. Lack of
13 foundation, time and person --

14 THE COURT: Overruled.

15 You may answer that.

16 THE WITNESS: I observed that the participants
17 took the game very seriously.

18 MR. KELLY: Your Honor, objection. And I
19 request the answer be stricken.

20 THE COURT: Sustained.

21 Q. BY MS. POLK: Limiting your answer to
22 what you personally observed, what did you observe
23 about a participant who had been killed, who moved,
24 who was brought from the cemetery back in front of
25 God? What did you observe about the participant?

1 **A. I'm not sure how I can answer the**
2 **question other than how I just did.**

3 **Q.** Well, your answer about how participants
4 reacted, limiting that to just what you personally
5 observed, what did you observe?

6 **A. I would just see them going through the**
7 **game, like, the rules before they have to --**
8 **because of dishonor. They were taught the**
9 **different ways they had kill themselves. They**
10 **would take their knife -- you know -- a symbolic**
11 **knife, cut their throat or they would put a sword**
12 **inside their stomach and turn it.**

13 **Q.** We've heard testimony about an activity
14 called the "Vision Quest." Did you have a role
15 during the Vision Quest?

16 **A. Yes.**

17 **Q.** What was your role?

18 **A. A couple of parts. I had to go and hike**
19 **the Vision Quest locations and learn where they**
20 **were.**

21 **Q.** Who identified the spots for the Vision
22 Quest?

23 **A. The owner of Angel Valley -- Amayra**
24 **Hamilton.**

25 **Q.** Who did you hike with to locate the

1 spots?

2 **A. Amayra and Barbara Waters.**

3 **Q.** Did you do that on more than one
4 occasion?

5 **A. Yes.**

6 **Q.** And why?

7 **A. Because we needed to find the location in**
8 **the dark.**

9 **Q.** Do you recall how many locations there
10 were?

11 **A. There were many throughout the entire**
12 **place, but I believe I was responsible for 23**
13 **locations.**

14 **Q.** Who else was responsible for locating the
15 spots for the Vision Quest exercise?

16 **A. Josh and Liz were paired up. They had**
17 **their section. Jennifer was paired up with**
18 **somebody. Everybody had, like, a segment. Mine**
19 **actually was the biggest segment.**

20 **Q.** I just put up on the overhead
21 Exhibit 141. Do you recognize that photograph?

22 **A. I do.**

23 **Q.** What do you recognize that to be?

24 **A. That's Angel Valley.**

25 **Q.** Do you have a sense, Ms. Martin, how

1 spread out the spots for the Vision Quest were?

2 **A. They were quite spread out.**

3 **Q.** Are you able to say in terms of feet or
4 acres or miles how spread out these spots were?

5 **A. I would say my route -- which if you**
6 **want, I can speak about. It was a good mile, I**
7 **would say.**

8 **Q.** Do you know on this photograph whether or
9 not there is a creek that runs through the
10 property?

11 **A. Yes. Right along that tree line in the**
12 **middle.**

13 **Q.** Could you draw that on the screen. You
14 can touch your screen, and it should draw.

15 **A. It goes like this.**

16 **Q.** Now that we have an overhead, will you
17 draw on this screen where the creek runs. Do you
18 recall the name of that creek?

19 **A. No.**

20 MS. POLK: And, Your Honor, counsel has agreed
21 to admit Exhibit 140.

22 MR. KELLY: Judge, with the understanding that
23 it's an Angel Valley document, not a JRI document.

24 THE COURT: Ms. Polk, is that how it's
25 identified?

1 MS. POLK: Yes, Your Honor.

2 THE COURT: Okay. Then Exhibit 140 is
3 admitted with that understanding.

4 (Exhibit 140 admitted.)

5 **Q.** BY MS. POLK: Ms. Martin, I'm going to
6 show you Exhibit 140. Have you ever seen this map
7 before?

8 **A. Yes.**

9 **Q.** And do you recognize what it is?

10 **A. Yes.**

11 **Q.** What is it?

12 **A. It's a map of Angel Valley, and it shows**
13 **the basic layout of the base camp.**

14 **Q.** Do you recall when you saw it before?

15 **A. I think I only saw it once I arrive at**
16 **Angel Valley.**

17 **Q.** Are you able to identify on this map
18 where the Vision Quest spots were?

19 **A. No.**

20 **Q.** Generally, do you have an idea of where
21 the Vision Quest spots were in relationship to the
22 property?

23 **A. Yes.**

24 **Q.** Let me put this on the overhead.

25 MR. KELLY: I apologize. Can I get the number

1 of that again.

2 THE COURT: It's 140, I believe.

3 MS. POLK: Yes.

4 Q. I'm placing Exhibit 140 up on the
5 overhead. There is quite a bit of glare on it.
6 Let me just ask, Ms. Martin, if you would first
7 identify on this map where is the -- if you can.
8 We talked about the Crystal Hall. Do you see it on
9 here?

10 A. **The Crystal Hall?**

11 Q. You can draw with your finger, kind of
12 mark where you see it.

13 A. **Here's Crystal Hall.**

14 Q. And do you see the Heart Pavilion on
15 here?

16 A. **Yes. I'm drawing on it. Yes.**

17 Q. And are you able to recall where the
18 sweat lodge structure itself was on this map?

19 A. **Yes. Here.**

20 Q. Okay. And it does say "sweat lodge."
21 The big blue creek, do you see that it says "Oak
22 Creek"? It's a little bit hard to read them.

23 A. **Yes.**

24 Q. In terms of the spots for the Vision
25 Quest, do you have a general idea in relation to

1 the property and the housing structures where the
2 spots were for the Vision Quest?

3 A. **Mine were sort of out in this area kind
4 of off the map. There were some that were a little
5 bit closer in like in here. There were some down
6 here but off the map again and some out here,
7 again, off the map.**

8 Q. For your spots that were north of the
9 creek, how did you get across the creek?

10 A. **We walked across this bridge here and
11 then hiked back into there past everything. We
12 were farther out than anyone else.**

13 Q. And how many spots did you have out
14 there?

15 A. **I believe I had 23.**

16 Q. Do you recall ever meeting someone named
17 Kirby Brown?

18 A. **Yes.**

19 Q. And did you have any contact with Kirby
20 in connection with this Vision Quest activity?

21 A. **Yes.**

22 Q. Was she one of your participants?

23 A. **Yes.**

24 Q. Do you recall where her spot was?

25 A. **Yes.**

1 Q. Generally, where was it?

2 A. **Generally, maybe right up in here.**

3 Q. Did you ever meet James Shore?

4 A. **Yes. But I don't have a lot of memory of
5 him.**

6 Q. Was he one of the participants that you
7 led to a spot?

8 A. **I believe he was. Yes.**

9 Q. Do you have any idea where his spot was
10 for the Vision Quest?

11 A. **More out here.**

12 Q. You said that Liz Neuman led participants
13 to spots as well?

14 A. **Yes.**

15 Q. Who was she paired with?

16 A. **Josh Fredrickson.**

17 Q. Do you know what area on this map was
18 their area?

19 A. **Their's was closer in, closer -- and this
20 is a dry creek. Closer to the dry creek.**

21 Q. What time did you lead participants out
22 to their spots on the Vision Quest?

23 A. **At the end of the Samurai Game. So it
24 was probably midnight.**

25 Q. Is that reflected on the syntax in front

1 of you?

2 A. **Yes.**

3 Q. And shortly before being led out to their
4 spots in the Vision Quest, what had the
5 participants done?

6 A. **They had just ended their Samurai Game.
7 And they all were -- at the very end of the game,
8 everybody dies. And then they're led to the
9 outside of the Heart Pavilion, where we lined them
10 up along the outside. And they were led in sort of
11 packs out. They follow behind us in silence.**

12 Q. How did all of the participants die at
13 the end of the Samurai Game?

14 MR. KELLY: Your Honor, objection. Lack of
15 foundation.

16 THE COURT: Sustained.

17 Q. BY MS. POLK: Do you know how the
18 participants died at the end of the Samurai Game?

19 A. **Yes.**

20 Q. How do you know?

21 A. **Because Megan told me how the game was
22 played.**

23 Q. Were you there when the game ended?

24 A. **Yes.**

25 Q. And did you observe participants -- all

1 the participants die at the end?

2 **A. I don't recall.**

3 **Q. The syntax indicates after the Samurai**

4 **Game -- says write obituary/epitaph in silence.**

5 **A. Yes.**

6 **Q. Are you familiar with that?**

7 **A. I know that was on our syntax. I don't**
8 **recall them writing their epitaph.**

9 **Q. You said around midnight you led**
10 **participants out to their spots for the Vision**
11 **Quest.**

12 **A. Yes.**

13 **Q. How long did that take you to deliver**
14 **your 23 participants to their spots?**

15 **A. Maybe an hour.**

16 **Q. Was any light used?**

17 **A. No.**

18 **Q. And were the participants allowed lights?**

19 **A. No.**

20 **Q. Did you have a light?**

21 **A. I think we had one, but I didn't have**
22 **one. I think somebody else might have had one.**

23 **Q. After you delivered participants to their**
24 **spots, what did you do?**

25 **A. I, basically, would take them up into**

1 **this little bank area and kind of show them --**
2 **demonstrate where their area was and then leave**
3 **them there to start what they were told, what their**
4 **instructions were. I would just, basically, point**
5 **out the circumference of their area to stay.**

6 **Q. And then after you had delivered**
7 **everybody, what did you do?**

8 **A. Went back to the dining hall.**

9 **Q. Do you recall specifically delivering**
10 **Kirby Brown to her spot?**

11 **A. Yes.**

12 **Q. Did you have interaction with Kirby as**
13 **you delivered her to her spot?**

14 **A. Yes.**

15 **Q. What did you observe about Kirby at that**
16 **time?**

17 **A. She was shaking and she was very**
18 **uncomfortable. She had been killed very early on**
19 **by the Samurai Game, and she had to go to the**
20 **bathroom very badly. I didn't realize that was the**
21 **case. I thought she was afraid to go out there,**
22 **which surprised me. She seemed so tough. She was**
23 **shaking and wanted to say something to me. She**
24 **couldn't because she was in silence.**

25 **Q. Did you try to do anything for Kirby at**

1 that time?

2 **A. Just -- you know -- talk to her and say**
3 **you're going to do great, that type of thing with**
4 **just motions because we were all in silence. We**
5 **were unable to talk. And just kind of, like, pat**
6 **her on the back and just try to give her any sort**
7 **of comfort I could under the restrictions that I**
8 **was under.**

9 **Q. Were you allowed to speak?**

10 **A. We were not supposed to speak.**

11 **Q. You say Kirby was shaking. What**
12 **specifically did you observe?**

13 **A. She just looked very nervous and very,**
14 **very uncomfortable.**

15 **Q. After you delivered everyone to their**
16 **spots, did you go back to your room for the night?**

17 **A. Yes. I believe I did.**

18 **Q. And did you go to sleep, as far as you**
19 **recall?**

20 **A. Yes.**

21 **Q. I want to talk about what you did the**
22 **next day while the participants were out on their**
23 **Vision Quest. Do you recall that morning how early**
24 **of a morning it was for you?**

25 **A. Well, that was the one morning I didn't**

1 **have to be up at, like, 4:00 in the morning. So**
2 **probably I was up at 6:00. And I went with the**
3 **Dream Team. We did it in shifts. And I went with**
4 **the girls, the ladies. We would go -- we went into**
5 **Sedona and spend a day together.**

6 **Q. Before we talk about that, was there a**
7 **group breakfast that morning?**

8 **A. Probably. Yes.**

9 **Q. Do you recall if Mr. Ray was at the**
10 **breakfast with you?**

11 **A. Yes.**

12 **Q. And was there a meeting that morning?**

13 **A. It was just a gathering. I don't recall**
14 **if it was an actual meeting.**

15 **Q. Were assignments for the day given to you**
16 **and to Dream Team members?**

17 **A. Just everybody had the syntax. And I**
18 **think that was everybody's day off. So the syntax**
19 **was pretty loose for that day.**

20 **Q. You talk about going into town. Do you**
21 **mean Sedona?**

22 **A. Yes.**

23 **Q. Do you know where Mr. Ray went that day?**

24 **A. Yes. I believe I do.**

25 **Q. Where did Mr. Ray go?**

1 MR. KELLY: Your Honor, I'm going to object.
 2 Without foundation.
 3 THE COURT: Sustained.
 4 Q. BY MS. POLK: How do you know where
 5 Mr. Ray went on Wednesday when participants were
 6 out on their Vision Quest?
 7 A. **Megan told me.**
 8 MR. KELLY: Objection.
 9 THE COURT: There is no question.
 10 Q. BY MS. POLK: Who all went with you into
 11 Sedona?
 12 A. **Liz Neuman, Lisa Rondan, Barb Waters,**
 13 **Christine Jobe, Jennifer Haley, myself.**
 14 Q. Were these the girls or the female staff
 15 and Dream Team members?
 16 A. **Yes.**
 17 Q. How long were you all in Sedona?
 18 A. **Several hours.**
 19 Q. Did you spend time with Liz Neuman that
 20 day?
 21 A. **Yes.**
 22 Q. Had you met Liz Neuman prior to Spiritual
 23 Warrior 2009?
 24 A. **No.**
 25 Q. What did you do with Liz Neuman that day

1 in Sedona?
 2 A. **We had tinsel put in our hair together.**
 3 **We went into the shop and had our auras read. We**
 4 **walked through the store, and we picked out a**
 5 **little jewelry. She and I bought matching rings.**
 6 **We just had a really wonderful day of bonding and**
 7 **getting to know each other.**
 8 Q. Was Liz Neuman older than you?
 9 A. **Yes.**
 10 Q. And describe for the jury what her
 11 attitude was that day.
 12 A. **She was very happy. She's a very warm,**
 13 **warm person, very compassionate, very engaging.**
 14 **And she spoke to you -- you know -- she just was**
 15 **full of life and joy and really took everybody in**
 16 **that she met, that I can see from my experience.**
 17 Q. And you among them?
 18 A. **Yes.**
 19 Q. You said you and Liz had your auras read.
 20 What is an aura?
 21 MR. KELLY: Objection. Relevance.
 22 THE COURT: Sustained.
 23 Q. BY MS. POLK: Had you had your aura read
 24 before?
 25 A. **No.**

1 MR. KELLY: Objection.
 2 THE COURT: Overruled.
 3 Q. BY MS. POLK: How many hours were you in
 4 town with the other women?
 5 A. **Three maybe.**
 6 Q. Do you recall -- did you have to be back
 7 at Angel Valley at a specific time?
 8 A. **Yes.**
 9 Q. Why?
 10 A. **Because the guys, the male Dream Team**
 11 **people, they wanted to be relieved in case they**
 12 **wanted to go into town.**
 13 Q. Relieved from what?
 14 A. **We were just keeping post. We were**
 15 **taking turns keeping post in the dining hall in**
 16 **case a participant came back into the camp and**
 17 **needed anything.**
 18 Q. What time was it that you and the women
 19 had to be back at Angel Valley?
 20 A. **I don't recall. It might be on the**
 21 **syntax. I'm not sure. It was sort of an**
 22 **agreement. I think we were going to spend half the**
 23 **day. So maybe 3:00 o'clock.**
 24 Q. When you and the other women came back to
 25 Angel Valley, did the male staff and Dream Team

1 leave then, if you know?
 2 A. **To my recollection, they stuck around and**
 3 **they stayed with us. And we all just congregated**
 4 **into the dining hall -- all of us.**
 5 Q. Did you and the other women bring any
 6 food and drink back?
 7 A. **Yes, we did.**
 8 Q. What did you bring back?
 9 A. **We brought food and wine.**
 10 Q. And at some point did you become aware of
 11 where Mr. Ray was?
 12 A. **Yes. He came back from his jaunt, his**
 13 **journey.**
 14 Q. Do you know what time?
 15 A. **It was dark. I think maybe -- or it**
 16 **was -- no. Let me take that back. It was probably**
 17 **around 4:30, an hour or so after we'd been sitting**
 18 **there.**
 19 Q. Did Mr. Ray himself do the Vision Quest
 20 activity?
 21 A. **No.**
 22 Q. Did he fast during the 36 hours that the
 23 participants were fasting?
 24 MR. KELLY: Your Honor, objection.
 25 THE COURT: Sustained.

1 Q. BY MS. POLK: Did you have breakfast with
2 Mr. Ray on Wednesday when the participants were out
3 on their Vision Quest?
4 A. Yes.
5 Q. And did he eat?
6 A. Yes.
7 Q. And did he drink?
8 A. Yes.
9 Q. When you and the other women came back
10 from Sedona, you said you brought some food and
11 some wine. Where did you go?
12 A. Where did we go to purchase that or where
13 did we go at Angel Valley?
14 Q. At Angel Valley.
15 A. We went into the dining hall.
16 Q. Did you have a little gathering?
17 A. Yes, we did.
18 Q. Who was present for the gathering?
19 A. There were about 14 people. All the
20 people from -- the people that were in the kitchen
21 came out -- all the Dream Team members. Marta Reis
22 was there. Just about everybody was there that was
23 not out on the Vision Quest. There was all the
24 Dream Team and JRI people.
25 Q. Was Mr. Ray there?

1 A. No.
2 Q. And were the guys or the male Dream Team
3 members and staff there as well?
4 A. Yes.
5 Q. How many hours, Ms. Martin, would you say
6 you were in the dining room for that gathering for?
7 A. We were in there for many hours. We were
8 there during the day. We had just started talking.
9 We bonded into the night. So I would say five
10 hours or so sitting in there talking.
11 Q. At some point did you eat the food and
12 the wine you had brought?
13 A. We ate the food. And when we opened the
14 bottles of wine, we had about one sip of it. So we
15 did get a little bit -- we were sharing four
16 bottles of wine with about 14 people. We poured it
17 out for everybody. We got, maybe, a sip of wine
18 out of it. We did eat the food.
19 Q. And then what happened after you poured
20 the wine?
21 A. James Ray somehow or another came in.
22 After he'd been in there before, the bottles of
23 wine were there untouched. He didn't say anything.
24 Q. So let's back up, then. When you first
25 began -- gathered with the other people with the

1 food, Mr. Ray was not present?
2 A. He passed through once.
3 Q. Do you know what room he stayed in at
4 Angel Valley?
5 A. Yes.
6 Q. Is it shown here on the map that we have
7 on the overhead?
8 A. The yellow house. It's here.
9 Q. Okay. And can you show the jury where
10 the dining hall was that you all had gathered in?
11 A. I think it's just right here as well.
12 Q. His room was close to the dining hall?
13 A. Yes.
14 Q. Your testimony is that he passed through
15 initially. And did you have any interaction with
16 Mr. Ray at that time?
17 A. Yes. The ladies were very excited for
18 Mr. Ray to look at their auras. Everybody had
19 their auras read, and they wanted him to look at
20 that.
21 Q. Did he?
22 A. Yes.
23 Q. And anything else at that time?
24 A. He made a comment about their auras that
25 they didn't like.

1 Q. What comment did he make?
2 A. They were all laid up for him to see, and
3 he said, sex, sex, sex, sex. All you guys are
4 talking about is sex. That's all you think about.
5 Something like that.
6 Q. And was that all you were talking about?
7 A. No. That was the only thing we weren't
8 talking about. We were -- they had had their auras
9 read during the day. And the lady who read the
10 auras was saying, you're a wonderful person, you're
11 a great teacher, all these beautiful compliments
12 that the lady who just read our auras. And they
13 were excited because James was kind of their leader
14 and they felt --
15 MR. KELLY: Your Honor, I'm going to object to
16 the extent it speaks of other people's state of
17 mind.
18 THE COURT: Sustained.
19 Q. BY MS. POLK: Just about your state of
20 mind. Did you want Mr. Ray to see your aura?
21 A. I didn't. It didn't occur to me one way
22 or the other.
23 Q. Okay. After that interaction with
24 Mr. Ray and what he said, what happened?
25 A. After he left, after looking at their

1 auras, they felt pretty hurt.

2 Q. And then did you all talk about that for
3 a while?

4 A. We talked about that for a while.

5 Q. Did Mr. Ray come back at some point?

6 A. Yes.

7 Q. How much later did he come back?

8 A. Maybe about an hour.

9 Q. And when Mr. Ray first came through and
10 the girls showed him the auras, were the bottles of
11 wine on the table?

12 A. On the table. Yes.

13 Q. When he came back through, you testified
14 that you had opened the bottles and had poured
15 everybody some wine, and that's when Mr. Ray came
16 back through?

17 A. Yes.

18 Q. And what happened then?

19 A. He became outraged that we were having
20 wine.

21 Q. What did he say?

22 A. He blamed me for having it and -- but
23 this was my first time. And the ladies -- that was
24 their precedent that had been set for years, that
25 that's something that they did.

1 And so I didn't think I was in the
2 position to tell these women, all 40 years and
3 older, that they couldn't do what they wanted to do
4 on their day off in volunteering.

5 He became outraged and screamed at me in
6 front of all the ladies. He was just very upset
7 there was wine being consumed.

8 Q. And you say "screamed." Mr. Ray in the
9 dining room screamed?

10 A. Well, he was shaking and pointing his
11 finger at me. And he said, you're a paid employee.
12 You're the one who is responsible for this.

13 And I said, responsible for what? I
14 mean, we're all bonding, having a beautiful time
15 here. And he was furious with me for the fact that
16 there was wine there.

17 Q. Did he say something to the other Dream
18 Team members or employees as well?

19 A. Yeah. He was admonishing everyone as a
20 whole but mostly me.

21 Q. How long was Mr. Ray in the room at that
22 time?

23 A. 5, 10 minutes, maybe.

24 Q. Did he ever talk to you separately?

25 A. Yes.

1 Q. When did that occur?

2 A. Shortly thereafter. He talked to me
3 again outside the dining hall.

4 Q. How did he get you outside?

5 A. I can't recall if he did this and had me
6 come out. I don't recall.

7 Q. What happened outside?

8 A. He was in my face screaming at me. And I
9 couldn't understand why he was so angry about this.

10 It was the most innocent, wonderful thing. And
11 these ladies -- every event I'd been to, the JRI
12 members have wine -- you know -- on their off time.

13 It didn't seem to me to be such a
14 problem. I also cleared it with Angel Valley. And
15 they said, if it's okay with you guys, it's okay
16 with us. I didn't understand. But he was very mad
17 at me.

18 Q. What did you say to Mr. Ray at that time?

19 A. Actually, I didn't want to argue with him
20 because he was so angry. I just said, hey -- you
21 know -- I'm sorry. That's what they're doing. I
22 defended myself a bit just saying this is what they
23 said they do regularly. I didn't know this was
24 going to upset you so much. I just tried to calm
25 him down because he was so angry.

1 Q. After that did you go back in and join
2 the other staff, Dream Team members?

3 A. Yes.

4 Q. And what was the atmosphere like then?

5 A. It completely changed. It went from
6 bonding and loving to -- the ladies were very
7 upset. They were upset that James was angry with
8 me. They didn't understand it. They wanted to
9 write letters to him. They just thought it was
10 just out of order.

11 Q. Do you recall specifically how Liz Neuman
12 reacted to that admonishment about the wine?

13 A. She was very quiet. She was very
14 shocked. She was hurt.

15 Q. How much longer did you and the other
16 Dream Team members and employees stay in the dining
17 room after being admonished by Mr. Ray?

18 A. Quite a while.

19 Q. Do you recall if Mr. Ray came back in
20 again?

21 A. I don't recall.

22 Q. Was there ever an apology by the
23 participants to -- by the Dream Team members and
24 employees, the participants to the wine drinking,
25 to Mr. Ray?

1 **A. Yeah. That was one of the things that I**
 2 **just remembered now. They -- after -- we had a lot**
 3 **of discussion about the wine. And they wanted to**
 4 **smooth things over with James. They didn't want**
 5 **him to be angry with them even if they felt it was**
 6 **unreasonable.**
 7 **They wanted to calm him down because they**
 8 **all respected him so much. So they decided they**
 9 **wanted to bring him back in and apologize as a**
 10 **group to say, we're really sorry this happened, and**
 11 **it will never happened again. Now we know you**
 12 **don't like this. They wanted to smooth things over**
 13 **with him.**

14 **Q. Did that happen?**

15 **A. Yes.**

16 **Q. Did Mr. Ray come back in the room, then,**
 17 **a third time?**

18 **A. Yes.**

19 **Q. Do you recall what Mr. Ray said when the**
 20 **various individuals apologized?**

21 **A. I recall that he accepted their apology.**
 22 **But then he pointed at me once again, and he said,**
 23 **I still hold you responsible. And then he left.**

24 **Q. And do you recall specifically Liz Neuman**
 25 **and whether or not she apologized?**

1 **A. Yes. I do believe she apologized.**

2 **Q. Was Liz Neuman present when Mr. Ray**
 3 **pointed to you at the end and he said he still**
 4 **holds you responsible?**

5 **A. Yes. I believe everybody was there.**

6 **Q. Did you have further interaction with Liz**
 7 **Neuman about that whole incident that occurred?**

8 **A. Yes.**

9 **Q. When did that occur?**

10 **A. That night she hugged me and told me this**
 11 **was not your fault. You did nothing wrong. You**
 12 **were just here. And I've been doing this for six**
 13 **years or whatever she said, and I've never seen him**
 14 **behave this way. And I'm really sorry.**

15 **She was apologizing on his behalf to me,**
 16 **trying to make me feel okay. And I said, it's**
 17 **okay, Liz. Whatever. It's okay. And the next**
 18 **morning she gave me a little angel. On the back of**
 19 **the angel it said, well behaved women rarely make**
 20 **history.**

21 **Q. When the Vision Quest activity was**
 22 **over -- do you recall when it was over?**

23 **A. That next morning.**

24 **Q. Which would be Thursday morning now?**

25 **A. Yes.**

1 **Q. Did you have a role in gathering up the**
 2 **participants?**

3 **A. I did.**

4 **Q. And did you go out and gather your 23**
 5 **participants?**

6 **A. Yes.**

7 **Q. Do you recall gathering up Kirby Brown?**

8 **A. I do.**

9 **Q. What do you recall about that?**

10 **A. I recall going to her Vision Quest spot.**
 11 **I recall how beautifully she had made it with her**
 12 **crystals and things. She made it really nice.**

13 **Again, she was still in silence. So was**
 14 **I. But we embraced each other very strongly, and**
 15 **we went back into the camp together.**

16 **Q. Did there come a time you were able to**
 17 **talk to Kirby about why she had been so upset when**
 18 **you first led her out to her Vision Quest spot?**

19 **A. Yes.**

20 **Q. When was that?**

21 **A. When they broke the silence back at the**
 22 **Crystal Hall.**

23 **Q. How was it that you had an opportunity to**
 24 **talk to Kirby?**

25 **A. She came right up to me and talked to me.**

1 **Q. What was her demeanor at that time?**

2 **A. She was happy, jovial -- you know -- very**
 3 **excited that the silence was broken and she was**
 4 **able to speak and tell me.**

5 **Q. Did she tell you what the reason for her**
 6 **discomfort was two days before?**

7 **A. Yes.**

8 **Q. And what did she say?**

9 **A. She said that she had been killed very**
 10 **early on in the Samurai Game and she had to go to**
 11 **the bathroom. And she held it for, like, three**
 12 **hours or more and didn't move a muscle. And she**
 13 **said it was the most painful thing she'd ever**
 14 **experienced in her life, but she was a warrior and**
 15 **she did it and --**

16 **MR. KELLY: Your Honor, I'm going to object.**
 17 **Ask that the answer be stricken. It's hearsay.**
 18 **Violates the Sixth Amendment.**

19 **THE COURT: The objection is sustained.**

20 **MS. POLK: Your Honor, it's not offered for**
 21 **the truth of the matter. It goes to the state of**
 22 **mind of Ms. Brown inside the sweat lodge.**

23 **THE COURT: The objection is sustained.**

24 **We're going to take the morning recess,**
 25 **though, now, Ms. Polk, Mr. Kelly, ladies and**

1 gentlemen. So we'll take the morning recess at
2 this time.

3 Please be back in the jury room at 10
4 till, so about in 20 minutes. We'll start as soon
5 as we can after that. Please remember the
6 admonition.

7 And, Ms. Martin, please remember the rule
8 of exclusion I've discussed. And you are excused
9 at this time as well.

10 I'm going to ask that the parties remain.
11 Before we recess I'd like to take up the objection.

12 (Proceedings continued outside presence
13 of jury.)

14 THE COURT: Mr. Kelly?

15 MR. KELLY: Judge, again, and this has been a
16 continued problem throughout the course of this
17 trial that the state of Arizona wants to ask an
18 improper question to elicit an improper response,
19 whether it's a leading question or hearsay or
20 violation of my client's right of confrontation,
21 lack of foundation, forcing me to object in front
22 of the jury, which -- that paints a picture of
23 being obstreperous or afraid for the evidence to
24 come out in this trial.

25 If it happens occasionally, understand.

1 But it's repeated. This last response, I was
2 listening to hearsay questions elicited --
3 eliciting hearsay responses repeatedly. And then
4 the witness went off until I made the objection.

5 There's a significant Sixth Amendment
6 problem in this particular case as it relates to
7 Kirby Brown.

8 I'd ask, Judge -- the objection was
9 sustained. I would ask that the answer be
10 stricken. And I'd ask for a cautionary instruction
11 at this point in the trial from the Court directed
12 towards the jury as to the reliability of hearsay
13 information and the inability of my client to
14 confront either witnesses that live out of the
15 country or, in this particular case, a decedent.

16 THE COURT: Ms. Polk?

17 MS. POLK: Your Honor, this testimony is
18 admissible on two separate grounds. And first of
19 all, this information, of course, is set forth in
20 the interview done by this witness. The defense
21 has had this information for a very long period of
22 time.

23 These statements that are being elicited
24 from this witness -- this witness -- I have laid a
25 foundation. She personally was there. She

1 personally had had this conversation with Kirby
2 Brown.

3 First of all, it is not hearsay because
4 it's not being offered to prove the truth of the
5 matter. It's being offered to prove Ms. Brown,
6 Kirby Brown's, state of mind by the time she
7 entered Mr. Ray's sweat lodge.

8 She had gone through all the activities
9 of the week. For her being a warrior was putting
10 up with this pain and pushing through it. And as
11 this witness has just testified to, Kirby Brown was
12 proud of that.

13 She felt she had accomplished something
14 by following the dictates of the defendant, by
15 following the teachings of the week that you pushed
16 through -- you pushed through the pain because
17 something good will come of it. And that's exactly
18 what she has done.

19 So I'm not offering to prove that she
20 went three hours without using the bathroom. I'm
21 offering it to prove her state of mind.

22 Secondly, should the Court decide that it
23 is hearsay, that it is a hearsay exception under
24 Rule 803(3), then existing mentally emotional or
25 physical condition, it's the -- Kirby Brown tells

1 this witness her then existing mental and emotional
2 condition, which is she was excited because she had
3 successfully pushed through the pain, successfully
4 played the Samurai Game, successfully laid there
5 dead for hours without moving in spite of having to
6 use the bathroom.

7 And her state of mind now coming off the
8 Vision Quest and just an hour before she's going to
9 enter the sweat lodge is that she is excited about
10 that. Her mental and emotional condition at that
11 point is she is proud that she is a warrior. She
12 feels accomplishment that she can push through the
13 pain.

14 She is a believer in Mr. Ray's teachings
15 that you ignore what your body is telling you
16 because something good will come from it if you
17 push through the pain and endure whatever the
18 condition that Mr. Ray imposes on you for the
19 Samurai Game.

20 If it's lying there for hours without
21 moving, ignoring your body's need to use the
22 facility. For the sweat lodge it's staying inside
23 the superheated environment, ignoring your body
24 that is telling you that you are suffering on that
25 continuum of heat and moving toward heat stroke and

1 ultimate death.

2 So for two reasons this testimony is
3 admissible. First of all, it's not hearsay. And
4 secondly, even if considered hearsay, it falls
5 under one of the hearsay exceptions.

6 THE COURT: Mr. Kelly?

7 MR. KELLY: Judge, you previously ruled that
8 803(3) is not applicable to Kirby's statement.
9 We're proceeding based on this Court's rulings both
10 pretrial and during the course of trial.

11 As to Ms. Polk's summary of what she
12 believes the evidence will be, she can save that
13 for closing argument.

14 We have a problem here because this
15 statement that I'm happy because I got to go to the
16 bathroom is -- apparently her discomfort is because
17 before she begins the Vision Quest, which is 36
18 hours in length, plus another 6 or 8 hours before
19 the sweat lodge -- so we're talking maybe up to two
20 days prior to the sweat lodge event that she's
21 laying on a floor and, according to Melinda Martin,
22 is afraid to raise her hand that I have to go to
23 the bathroom because of the mind control exercised
24 by my client.

25 That is a stretch, Judge. I understand

1 it's the state's case. But what we're asking is
2 that the witnesses provide testimony based on
3 they're personal knowledge and within the confines
4 of the rules of evidence.

5 And finally, Judge, of course, we have a
6 significant Sixth Amendment problem and a
7 significant First Amendment problem that we've been
8 discussing.

9 THE COURT: 803(3) does not include statements
10 and memory or belief to prove the fact remembered
11 or believed. That's the hearsay aspect of it.

12 If Kirby Brown had stated at the time she
13 was in discomfort, what was going on, that would
14 fall within 803(3). But when you're relaying, as
15 Mr. Kelly points out, a day or two later, then
16 you're -- you have the inability to test that fact.

17 Ms. Polk?

18 MS. POLK: Your Honor, the statement that is
19 relevant is not that she had to go to the bathroom
20 36 hours ago. Frankly, that's already come in
21 through the clip herself. The statement that's
22 relevant --

23 THE COURT: But there was a very specific
24 instruction about not considering the truth of that
25 part of that.

1 MS. POLK: And I'm not offering this statement
2 for the truth of the matter either. What's
3 relevant about this witness's testimony is Kirby
4 Brown's state of mind 36 hours later as she's
5 entering the sweat lodge, as she's saying, I pushed
6 through that. I'm a true warrior. I survived the
7 Samurai Game. I survived five hours on the floor
8 in spite of having to use the bathroom. I've now
9 done the Vision Quest.

10 What this witness is testifying to is
11 Kirby Brown's state of mind as she's entering the
12 sweat lodge. It's not -- I'm not seeking to
13 solicit the testimony that Kirby had to go to the
14 bathroom.

15 What I'm soliciting or eliciting from
16 this witness is that Kirby Brown just an hour or so
17 before entering the sweat lodge is proud that she
18 is a warrior. She's proud that she pushed through
19 the rules of the Samurai Game. She's proud now
20 that she's gone through the Vision Quest. And
21 she's excited because, this witness will testify,
22 Kirby says I'm a true warrior.

23 That is Kirby's state of mind. And that
24 clearly -- first of all, not offered to prove the
25 truth that she's a true warrior. But secondly,

1 even if considered hearsay, clearly under 803(3),
2 this is her existing state of mind about an hour
3 before she entered the sweat lodge that she is a
4 warrior.

5 She's excited. She's done the events of
6 the week. She pushed through pain. She ignored
7 her body telling her that she had to use the
8 facility. She's ignoring the pain of her body just
9 as she goes into Mr. Ray's sweat lodge ceremony and
10 ignores whatever her body is telling her about heat
11 stroke now. Again, on his instructions. That's
12 why it's relevant.

13 It's not relevant that she had to use the
14 bathroom. It's relevant because this statement,
15 this conversation with this witness two hours, an
16 hour, before Kirby Brown enters the sweat lodge, is
17 relevant to Kirby Brown's state of mind as she's
18 entering the sweat lodge -- which is, I can push
19 through this. I can obey the dictates of Mr. Ray's
20 teaching. I believe in these teachings. There's
21 something good that comes of ignoring what my body
22 is telling me. And I'm going to push through and
23 I'm going to have that breakthrough, and I'm going
24 to do whatever he tells me, because at the other
25 end something good awaits me.

1 THE COURT: And I understand the theory and
2 the point. The problem is when someone recites
3 facts or this person recites a statement from
4 memory, that's where the issue comes in, because
5 that can't be tested.

6 The then existing mental state of being
7 happy or this is what I intend to do, perhaps
8 expressing I have a real sense of accomplishment
9 now -- those are the types of things that probably
10 fit within that intent, plan, motive, design,
11 mental feeling, pain, and bodily health.

12 But when there is a repetition of facts
13 that go into that feeling, how can those be tested
14 with cross-examination? And when the recording
15 came in, there was a limiting instruction about how
16 that could be used for the effect on the listener,
17 if any.

18 That's how it was worded, any effect it
19 might have had on the listener, as opposed to going
20 through saying I did all of these things. I
21 suffered all of this and went all through this.

22 That's what I -- and Ms. Polk, what do
23 you see the purpose of that second part of 803(3)
24 being when it says, but not including statements of
25 memory or belief to prove the fact remembered?

1 MS. POLK: Because there is no fact remembered
2 that the state is trying to solicit.

3 THE COURT: But it did. And in that statement
4 there was a fact remembered about the pain she was
5 in two days ago. Not then existing emotional
6 physical condition but a preexisting -- well,
7 not -- that's the wrong word in this context. But
8 one that existed a day or two before.

9 MS. POLK: But that's not the sole purpose.
10 That's not the sole context of her statements.
11 Anytime a person is talking about what I intend to
12 do, what my sense of accomplishments is, there are
13 facts underlying that that are necessarily there.

14 And the Court has recognized that under
15 803(3), a person can talk about -- or it is
16 admissible a witness's statement concerning a
17 statement about what somebody feels a sense of
18 accomplishment to be or what that person intends to
19 be.

20 But, again, Your Honor, we are not
21 offering this to prove the truth of any of the
22 matters asserted. It's not being offered to prove
23 that Kirby had to go to the bathroom. It's not
24 being offered to prove that she is a true warrior.

25 This is nonhearsay. It's being offered

1 to prove her state of mind as she goes into the
2 sweat lodge. This witness is one of a few
3 witnesses who has contact with the victim of a
4 reckless manslaughter charge. And her state of
5 mind as she's entering this culminating event, this
6 superheated environment, is relevant to what her
7 state of mind is as she entered it.

8 The defense has repeatedly called into
9 question the choice -- the choice to leave over and
10 over again with participants. This is relevant to
11 Kirby Brown's state of mind and why she stays in
12 the sweat lodge.

13 THE COURT: The problem is how it's intermixed
14 with hearsay statements and separating that out
15 from what the jury gets.

16 MS. POLK: If that's a concern, I would
17 request the limiting instruction to tell the jury
18 they're not to consider it for that broad a purpose
19 but that they can consider it for Kirby Brown's
20 state of mind, identical to the limiting
21 instruction they heard when the clip itself was
22 played.

23 THE COURT: And since this issue has been
24 around, I certainly would appreciate case law from
25 either side on this. But I think the rule allows

1 for clearly then existing mental state, mental
2 feeling, sense of accomplishment.

3 Mr. Kelly?

4 MR. KELLY: Judge, just a couple things.
5 First of all, in regards to disclosure, in the
6 interview referred to of this particular witness --
7 told Detective Edgerton, and I'll quote. When
8 asked by Melinda, Melinda's question was, Kirby,
9 you look like you were so scared to be dropped off
10 at the Vision Quest.

11 And her response was, no, no, no. I
12 wasn't afraid. I had held -- I had to go to the
13 bathroom for more than three hours. Because I
14 wasn't allowed to move, I laid there and dealt with
15 the pain. She goes, I've never been in such pain
16 in my life, but I did it.

17 Now, that is, Judge, for the record, on
18 page 10, lines 18 through 25, of the October 23rd,
19 2009, interview provided by the State of Arizona.

20 There's nothing about Spiritual Warrior,
21 et cetera, in the summary provided by the State of
22 Arizona. And, Judge, I have to emphasize, we have
23 a complete inability to ask Kirby Brown why did you
24 lay there and deal with the pain.

25 THE COURT: That's what I said several times

1 now. That's the problem when you have those
2 remembered facts.

3 MR. KELLY: And we also have other witnesses,
4 such as Melissa Phillips, saying I raised my hand
5 and went to the bathroom. So we can't even ask her
6 why didn't you raise your hand like Melissa?

7 We have a significant Sixth Amendment
8 problem per Ms. Polk's specific argument. Keep in
9 mind, Judge, that this statement is made eight
10 hours prior to the sweat lodge. So how does it,
11 then, become her existing state of mind when she's
12 walking into that sweat lodge?

13 And finally, Judge, let me mention this
14 point. There is no evidence in this case that my
15 client knew that. So, again, like I said in
16 sidebar, this becomes a morass of highly
17 prejudicial information related to my client's
18 speech that is somehow going to be used to convict
19 him of a serious homicide charge without any
20 facts -- aware of, consciously disregarding, a
21 significant risk of death.

22 MS. POLK: Your Honor, I'd like to respond to
23 a few things. First of all, that statement is in
24 the interview that was provided to the defense.
25 It's the interview of Melinda Martin that occurred

1 just a couple weeks after October 8th of 2009.

2 This has come up on several occasions.
3 The defense had requested to interview the state's
4 witnesses. The state was scheduling defense
5 interviews. And then we were contacted by the
6 defense, and they told us they didn't want to
7 interview any more of the witnesses.

8 So to take the position now that there's
9 not full disclosure when the statement itself is
10 clearly in here, but it's the defense who elected
11 for strategic reasons not to further interview the
12 witnesses, should not bar witnesses from giving the
13 full story surrounding statements that the defense
14 had -- certainly had evidence of.

15 THE COURT: Well, that's true. There's a
16 reason people are interviewed many times. And
17 obviously there wouldn't be interviews if people do
18 that to fill out the story or whatever. It's not a
19 disclosure issue that I see.

20 Mr. Kelly, I don't see a disclosure issue
21 on that.

22 MR. KELLY: I was clarifying the record,
23 Judge. For the record, I was referring to what has
24 been marked, not admitted, as Exhibit 667.

25 And in response to Ms. Polk's statement

1 that we had knowledge of her response because it
2 was in that interview, and it's not.

3 THE COURT: I don't see this is any kind of
4 disclosure. People are free to interview if they
5 wish to do that. Those things can be covered on
6 cross-examination.

7 There is the rule, 803(3). As it stands
8 now, the answer was mixed with improper statements.
9 It needs to be handled with a limiting instruction.
10 It's been done once. And I have a real issue with
11 how effective that can be.

12 There is appropriate testimony that can
13 come in. It's not a Crawford issue. No one is
14 saying that or anything like that. But there are
15 real potential Sixth Amendment confrontation issues
16 when it's mixed in with remembered facts. So then,
17 existing mental state, that can come in. But to
18 get into the facts remembered under that or that
19 underlie that cannot.

20 So the present answer is going to be
21 stricken. But 803(3) is a rule that's recognized
22 outside of confrontation issues.

23 We do need to take the recess.

24 Thank you.

25 (Recess.)

1 (Proceedings continued in the presence of
2 jury.)

3 THE COURT: The record will show the presence
4 of the defendant, Mr. Ray, the attorneys, the jury.
5 The witness, Ms. Martin, has returned to the stand.

6 And, ladies and gentlemen, the -- there
7 was an objection to the last question before we
8 recessed. I have sustained that objection. And
9 that last answer of the witness is stricken.

10 Ms. Polk?

11 MS. POLK: Thank you, Your Honor.

12 Q. Ms. Martin, on Thursday, October 8th,
13 after the participants came off of the Vision
14 Quest, was the code of silence lifted?

15 A. Yes.

16 Q. Do you know what time -- is it reflected
17 on your syntax?

18 A. Yes. 9:25 a.m.

19 Q. Do you recall where you were when the
20 code of silence was lifted?

21 A. I was in the Crystal Hall.

22 Q. And where were the participants?

23 A. They were all in the Crystal Hall as
24 well.

25 Q. What time did you pick up participants

1 from the Vision Quest?

2 **A. Around 6:30 in the morning.**

3 **Q.** And what activity occurred between 6:30

4 and the lifting of the code of silence at 9:25?

5 **A. There was a breakfast in silence. And**
 6 **then the doors opened to the Crystal Hall at**
 7 **9:00 a.m. There was a film clip from The Last**
 8 **Samurai. Then there was a prayer, and then the**
 9 **code of silence was lifted.**

10 **Q.** Once the code of -- prior to the code of
 11 silence being lifted, what did you observe at the
 12 Crystal Hall about the atmosphere in general?

13 MR. KELLY: Your Honor, I'm going to object.
 14 It's vague.

15 THE COURT: Overruled.

16 You may answer that.

17 THE WITNESS: Everyone was solemn. They were
 18 thoughtful. They were engaging but very -- but
 19 they were silent, of course.

20 **Q.** BY MS. POLK: And when the code of
 21 silence was lifted, how was it lifted?

22 **A. James said, the code of silence is**
 23 **lifted. Or Mr. Ray. And the music would erupt and**
 24 **it was a huge celebration. People were jumping up**
 25 **and down, yelling, and having a great time and**

1 **high-fiving each other and hugging. It was a big**
 2 **moment.**

3 **Q.** How did music erupt when Mr. Ray
 4 pronounced that the code of silence was lifted?

5 **A. There was something preorganized where**
 6 **one of the people who worked with us -- Marta**
 7 **Reis -- she was ready -- we were all ready for the**
 8 **code of silence. As soon as he said that, she**
 9 **turned up the music and it erupted. It was a big,**
 10 **joyous celebration.**

11 **Q.** Did anybody in particular seek you out
 12 when the code of silence was lifted?

13 **A. Yes.**

14 **Q.** Who was that?

15 **A. Kirby Brown was one of them.**

16 **Q.** Without telling the jury what she said at
 17 this time, just describe what Kirby Brown's
 18 demeanor was like.

19 **A. She was so happy. And she was just**
 20 **triumphant after having accomplished what she'd**
 21 **done.**

22 **Q.** How long was that interaction you had
 23 with Kirby Brown?

24 **A. A good maybe three, four minutes we**
 25 **hugged and talked.**

1 **Q.** What activity did you then go into?

2 **A. May I look at this to --**

3 **Q.** Yes.

4 **A. Everybody sat and talked about their**
 5 **experience in the Vision Quest.**

6 **Q.** Was that an activity where participants
 7 took the microphone?

8 **A. Yes.**

9 **Q.** The jury has heard that participants also
 10 engaged in an activity involving a sweat lodge
 11 ceremony by Mr. Ray. Did you have a role in
 12 setting up the sweat lodge ceremony?

13 **A. No.**

14 **Q.** Did you have any role for the sweat lodge
 15 ceremony itself?

16 **A. Just in working with the kitchen in**
 17 **providing water, electrolyte water, oranges and**
 18 **watermelon. Just having those provisions down**
 19 **there. That was my role.**

20 **Q.** And what did you do to make sure that
 21 there was watermelon, oranges, electrolytes, and
 22 the water?

23 **A. I worked with the kitchen in the Angel**
 24 **Valley dining hall and coordinated that with them.**

25 **Q.** Do you recall what time you had to have

1 those provisions down at the site?

2 **A. May I look at the syntax to reply to**
 3 **that?**

4 **Q.** Yes.

5 **A. It doesn't say on here. But I know that**
 6 **that was something that I was working on prior to**
 7 **them being there. Throughout the day I would --**
 8 **you know -- kind of run up there and talk with the**
 9 **kitchen crew and make sure they were on target for**
 10 **getting it down there prior to everyone arriving at**
 11 **the location of the sweat lodge.**

12 **Q.** And were participants shown a film clip
 13 prior to the sweat lodge?

14 **A. Yes.**

15 **Q.** What was that film clip?

16 **A. It was The Last Samurai again and how he**
 17 **lived.**

18 MR. KELLY: I believe the record should
 19 reflect the witness is refreshing her recollection
 20 off the exhibit.

21 THE COURT: Is that -- okay. It will show
 22 that.

23 **Q.** BY MS. POLK: Ms. Martin, what time was
 24 the sweat lodge ceremony supposed to begin? And
 25 you can refer to the syntax if you need to.

1 **A. Thank you. 2:45 p.m.**

2 **Q.** What time was the sweat lodge supposed to
3 end?

4 **A. We had it scheduled to last three hours.**

5 **Q.** Do you know how many hours it actually
6 lasted?

7 **A. I'm told that it lasted two and a half**
8 **hours.**

9 MR. KELLY: Your Honor, objection. Lack of
10 foundation.

11 THE COURT: Sustained.

12 **Q.** BY MS. POLK: Prior to entering the --
13 were you present when Mr. Ray gave a briefing to
14 participants about what to expect inside his sweat
15 lodge?

16 **A. No.**

17 **Q.** During the events of the week, the
18 Spiritual Warrior 2009 events, did Mr. Ray prepare
19 his participants emotionally for the sweat lodge
20 ceremony?

21 MR. KELLY: Your Honor, objection.

22 THE COURT: Sustained.

23 **Q.** BY MS. POLK: The events of the week,
24 Ms. Martin, that we've talked about were various
25 challenging activities --

1 MR. KELLY: Your Honor, objection to the form
2 of the question based on our previous discussions.

3 THE COURT: Go ahead and complete your
4 question please, Ms. Polk.

5 **Q.** BY MS. POLK: How were participants
6 prepared by Mr. Ray for each of those activities?

7 MR. KELLY: Your Honor, objection. Lack of
8 foundation.

9 THE COURT: Sustained as to foundation.

10 **Q.** BY MS. POLK: Do you know how Mr. Ray
11 prepared participants for each of the activities of
12 the week of Spiritual Warrior 2009?

13 MR. KELLY: Your Honor, objection. 403, lack
14 of foundation.

15 THE COURT: Just the form of the question,
16 that's -- I'll sustain just as to the form of the
17 question for the assumption.

18 MS. POLK: I'm sorry, Your Honor. I don't
19 understand the assumption.

20 THE COURT: Would you read the question back
21 please, Mina.

22 (Record read.)

23 MS. POLK: And the objection was sustained,
24 Your Honor?

25 THE COURT: It was as to the form of the

1 question.

2 **Q.** BY MS. POLK: Ms. Martin, during the time
3 that you worked for Mr. Ray and James Ray
4 International, did you have the opportunity to
5 participate and listen to Mr. Ray's teachings?

6 **A. Yes.**

7 **Q.** And through those opportunities did you
8 become familiar with Mr. Ray's teachings?

9 **A. Yes.**

10 **Q.** Did Mr. Ray specifically teach using
11 activities that are challenging?

12 **A. Yes.**

13 **Q.** And did Mr. Ray speak to his -- teach his
14 participants why he was using activities in order
15 for them to learn?

16 MR. KELLY: Your Honor, objection. This
17 relates it my client's state of mind.

18 THE COURT: Overruled.

19 MR. KELLY: Your Honor, may I voir dire the
20 witness?

21 THE COURT: No. Overruled. It had to do with
22 what Mr. Ray had said. So overruled.

23 You may answer that if you can.

24 THE WITNESS: His general teaching was to
25 teach people to break through limited beliefs or --

1 you know -- break through any challenges.

2 **Q.** BY MS. POLK: And did he teach them that
3 the activities they were engaging in was symbolic
4 of breaking through?

5 MR. KELLY: Your Honor, objection. It's a
6 leading form of the question.

7 THE COURT: Sustained.

8 **Q.** BY MS. POLK: What did Mr. Ray teach
9 participants about the activities themselves in
10 connection with his teaching them to break through?

11 MR. KELLY: Your Honor, objection to the form
12 of the question, the continued leading nature.

13 THE COURT: Sustained.

14 **Q.** BY MS. POLK: Did Mr. Ray discuss with
15 participants the activities of his seminar?

16 MR. KELLY: Your Honor, objection.
17 Foundation.

18 THE COURT: Counsel, I need to see the
19 attorneys, please.

20 (Sidebar conference.)

21 THE COURT: This all started with me
22 sustaining objections to form. And there are a
23 number of questions sometimes that -- we discussed
24 before, Ms. Polk, that they're, basically, loaded.
25 How did someone prepare? Did you see somebody do

1 something that suggests somebody should be doing
2 something, as opposed to what was done, what was
3 observed.

4 I'm sustaining these objections. They do
5 go to foundation. They do go to leading. And
6 that's -- the basis is really one of form of the
7 question.

8 I've held, Mr. Kelly, these are relevant
9 areas, what was happening in these activities, how
10 people participated. All of those things are
11 relevant to try to explain this very unusual
12 circumstance.

13 Again, there may be some legal issue down
14 the line that comes up. But that's -- that's the
15 overall relevance.

16 But the objections do have to go. But
17 the form of the questions -- they're often leading
18 and they imply something in them, how were they
19 prepared or not prepared, that kind of question.

20 Mr. Kelly?

21 MR. KELLY: Your Honor, in addition to the
22 legal basis for the objection as it relates to the
23 subject matter, my concern is that repeatedly there
24 is a leading question. I have to object in front
25 of this jury. It is sustained. And then the

1 follow-up question. And that suggests the answer
2 to the witness. And it's happening repeatedly.

3 MS. POLK: Your Honor, I'd like to respond to
4 that.

5 THE COURT: Of course. I want to hear the
6 response.

7 MS. POLK: Because I pose the question and
8 then the objection is foundation. When I attempt
9 to lay the foundation, then the objection becomes
10 leading.

11 Ultimately, this witness is familiar with
12 Mr. Ray's teachings. She's familiar that integral
13 to his teachings is a physical activity that is
14 symbolic of a breakthrough.

15 And that's the testimony that she has a
16 firsthand basis of, because she has been at the
17 events when he has taught participants that.

18 When I ask a general question, then the
19 objection is foundation. And then when I try to
20 direct the testimony, the objection becomes
21 leading.

22 THE COURT: What's relevant and what I've been
23 allowing has to do with what these participants
24 were taught or not taught, prepared, not prepared,
25 not just the general statement. And that's where

1 the foundation comes in there.

2 Mr. Kelly, there have been a number of
3 times that there have been objections where
4 Ms. Polk asks a question. First of all, it's a yes
5 or no to get to the area. Do you know if he --
6 whether or not he prepared. Questions like that.
7 And you'll say, objection. Foundation. Well,
8 that's the next step if she cannot provide it.

9 MR. KELLY: True, Judge. Sometimes it's the
10 form of the question, what are they experiencing?
11 What are they thinking? Sometimes it's foundation.
12 Because this witness doesn't have any basis to
13 provide this opinion. She's a six-month employee
14 that's never attended an event.

15 The disclosure indicates that she watched
16 CDs. There is a foundational objection based on
17 her lack of knowledge. But the real objection is
18 somehow watching a group of people and then
19 providing an opinion as to my client's abilities to
20 coerce them to sit in the sweat lodge and die.

21 THE COURT: The jury ultimately will sort
22 these things out. But people are allowed to
23 provide their observations. Putting in the
24 conclusion, that can be problematic.

25 MR. KELLY: I have no objection to

1 observations.

2 MS. POLK: I haven't asked the witness to
3 comment on what anybody else was thinking. Your
4 Honor, what is the objection asking her if she was
5 present when Mr. Ray prepared participants to
6 engage in the activities of the week?

7 THE COURT: There is nothing wrong with that.

8 MR. KELLY: Judge, it's the word "prepared."

9 THE COURT: The question was, how are they
10 prepared -- how were they prepared. It's already
11 implying that something had to be done or something
12 of that nature. How do they know whether they
13 prepared or not? You're apparently taking the
14 position they were prepared the wrong way.

15 So what was taught, general questions
16 about what was taught, what was relayed, what was
17 said -- that's been coming in.

18 MS. POLK: The problem is with the word
19 "prepared"?

20 THE COURT: And that specific question, I do
21 have a problem with that.

22 MS. POLK: I won't use the word.

23 THE COURT: The other thing is there are a lot
24 of objections, Mr. Kelly. Some of them when
25 Ms. Polk will ask, do you know. And you'll object

1 to that. But that's a legitimate question. Then
2 we can go from there on the foundation. We do need
3 to really watch the foundation to minimized
4 objections.

5 MR. KELLY: Judge, my understanding is that
6 you lay -- you ask the foundational questions first
7 and then the question that you are attempting to
8 elicit a specific answer to. You don't start with
9 the final question after the objection is sustained
10 then lay the foundation.

11 And that's the position I've been in
12 repeatedly. And it has to do with whether it's
13 opinion or knowledge, what basis in fact to provide
14 that opinion, compound questions. What did JRI,
15 James Ray, and Angel Valley do? Who are we
16 speaking about? It's been repeated.

17 THE COURT: Well, each situation you have to
18 look at. Sometimes a foundation may build in a
19 fashion the other way. There might be a question
20 just to get to the area of whether a person knows
21 about something. And that yes or no often can be
22 answered. And it's the most efficient way to get
23 to an area.

24 So I'm just going to keep calling it as
25 they come along.

1 Thank you.

2 (End of sidebar conference.)

3 THE COURT: Ms. Polk, when you're ready.

4 MS. POLK: Thank you, Your Honor.

5 Q. Ms. Martin, were you present at the
6 various events put on by Mr. Ray when he talked to
7 participants about what the meaning was of various
8 activities that they were engaging in?

9 A. Yes.

10 Q. And what did Mr. Ray teach participants
11 about the activities and their meaning?

12 A. He taught about facing your fears and
13 breaking through the boundaries that held you from
14 getting through or getting through whatever scares
15 you.

16 Q. Did he teach his participants what would
17 happen if they faced the fears and broke through
18 the boundaries?

19 MR. KELLY: Your Honor, objection. Lack of
20 foundation. Which activity? Which seminars?

21 THE COURT: Sustained.

22 Q. BY MS. POLK: Were you present at a
23 seminar when Mr. Ray spoke to them about the
24 significance of or what would happen if you broke
25 through or if you accomplished an activity that he

1 set out for a participant?

2 A. These activities, according to Mr. Ray,
3 were symbolic of life's journey. If you can walk
4 on fire, for example, you can break --

5 MR. KELLY: Your Honor, objection.

6 THE COURT: Sustained.

7 Q. BY MS. POLK: Were you present when
8 Mr. Ray spoke to the participants during Spiritual
9 Warrior 2009 about the activities and what they
10 were symbolic of?

11 A. Yes.

12 Q. And what did Mr. Ray say?

13 A. Symbolic of life, getting through your
14 challenges.

15 Q. Were you ever present at Spiritual
16 Warrior 2009 when a participant indicated they did
17 not want to complete an activity that was laid out
18 for them?

19 A. The ladies who wanted to leave.

20 Q. And were you ever present on -- at other
21 events put on by Mr. Ray when a participant
22 indicated they didn't want to face the activity or
23 the challenge?

24 MR. KELLY: Your Honor, objection. Prior
25 rulings of this Court and relevance.

1 THE COURT: Sustained.

2 Q. BY MS. POLK: Where were you, Ms. Martin,
3 when Mr. Ray -- I believe you testified that you
4 were not present when Mr. Ray briefed participants
5 prior to entering the sweat lodge.

6 A. Correct.

7 Q. Where were you?

8 A. I was running around various parts of
9 Angel Valley trying to make sure the water and so
10 on were at the sweat lodge.

11 Q. When did you rejoin the participants for
12 the sweat lodge?

13 A. When the participants were gathering
14 outside the sweat lodge, I came with a basket so
15 that they can give their donations to the builder
16 of the sweat lodge.

17 Q. What were those donations?

18 A. They were asked to bring cash money and
19 to put it in the basket that I carried. So
20 whatever denominations that they wanted to give,
21 they were asked to bring a donation to give to the
22 builder of the sweat lodge.

23 Q. Who gave that money ultimately to the
24 builder of the sweat lodge?

25 A. I did.

1 Q. And do you -- who did you give it to?
 2 A. Mr. Mercer.
 3 Q. Do you know if Mr. Mercer actually built
 4 the sweat lodge?
 5 A. I do not know.
 6 Q. Were you present when the sweat lodge was
 7 built?
 8 A. No.
 9 Q. Do you know if Mr. Mercer received other
 10 compensation for his role in the sweat lodge?
 11 A. I do not know.
 12 Q. And do you know how much money it was
 13 that was donated to give to him?
 14 A. I don't recall.
 15 Q. Do you know if any procedure was put in
 16 plan -- do you know if there was a safety plan that
 17 was put into place surrounding the exercise
 18 surrounding Mr. Ray's sweat lodge?
 19 MR. KELLY: Your Honor, objection. Strike the
 20 objection.
 21 THE COURT: Once again, if you can answer that
 22 yes or no, you may do so.
 23 Q. BY MS. POLK: Do you know?
 24 A. Can you repeat it, please.
 25 Q. Do you know if there was any safety plan

1 put in place surrounding this exercise involving
 2 going into a sweat lodge ceremony?
 3 A. Yes.
 4 Q. And how do you know if there was?
 5 A. When we were briefed on how to work with
 6 participants when they came out. That was our
 7 safety briefing.
 8 Q. Who gave you that safety briefing?
 9 A. Mostly Marta Reis.
 10 Q. When did that occur?
 11 A. Prior to the sweat lodge.
 12 Q. Will you tell the jury what you were
 13 briefed to do.
 14 A. I was briefed that when people came out
 15 of the sweat lodge, they were going to be very warm
 16 and hot. We had hoses and we would just kind of
 17 rinse them off with a hose and offer them some
 18 water or electrolyte water, offer them some fruit
 19 and maybe give them a towel so they can dry off.
 20 Q. Was there any other time during Spiritual
 21 Warrior 2009 that you were briefed on any safety
 22 measures beyond that briefing?
 23 A. No.
 24 Q. Was there any identification of medical
 25 staff on board for the sweat lodge ceremony?

1 A. We had discussed just prior to going into
 2 the sweat lodge that I was trained by Red Cross and
 3 that Lisa Rondan was an RN.
 4 Q. Who said that Lisa Rondan was an RN?
 5 A. She did.
 6 Q. Do you know if Lisa Rondan was hired by
 7 Mr. Ray or James Ray International for this event?
 8 A. No. She was not.
 9 Q. What was Lisa Rondan?
 10 A. She was a Dream Team volunteer.
 11 Q. How did you learn that she was a nurse?
 12 A. She told us prior to going into the sweat
 13 lodge that she was.
 14 Q. Did she say anything else in connection
 15 with telling you that she was a nurse?
 16 MR. KELLY: Your Honor, objection. Hearsay.
 17 THE COURT: Sustained.
 18 Q. BY MS. POLK: At that briefing what else
 19 was decided?
 20 A. It was decided that I was going to stay
 21 outside the sweat lodge, that Marta Reis was going
 22 to stay outside because she had experience. And it
 23 was decided who was going to go on the inside, who
 24 was going to stay on the outside.
 25 Q. Do you know where it was decided that

1 Lisa Rondan would be?
 2 A. Stationed outside, you mean?
 3 Q. Yes.
 4 A. I know where she was stationed. So yes.
 5 We discussed that.
 6 Q. Where was she stationed?
 7 A. If Marta and I were on the outside of
 8 each door, I recall that Lisa was just on the other
 9 side of Marta.
 10 Q. During that briefing was there any
 11 discussion of possible problems that might arise
 12 with the sweat lodge ceremony?
 13 A. I heard that somebody had a harder time
 14 coming to at a previous year, but I didn't --
 15 MR. KELLY: Your Honor, objection.
 16 THE COURT: Sustained.
 17 MR. KELLY: Ask the answer be stricken.
 18 THE COURT: That's granted. Answer is
 19 stricken.
 20 Q. BY MS. POLK: Listen to my question. At
 21 that briefing was there any discussion about
 22 problems that might arise at Mr. Ray's sweat lodge
 23 ceremony? It's a yes or no. Was there?
 24 A. No.
 25 Q. There was not?

1 **A. It's not really yes or no. I can't**
 2 **answer.**
 3 **Q. Why can't you answer that question?**
 4 **A. Because there was some --**
 5 MR. KELLY: Your Honor, objection.
 6 **Q. BY MS. POLK: Without telling me what**
 7 **anybody said, can you answer that question?**
 8 **A. Okay. Yes. There was.**
 9 **Q. At the briefing?**
 10 **A. Yes.**
 11 **Q. Who did it come from?**
 12 **A. Marta Reis mostly.**
 13 **Q. Beyond what Marta Reis said, was there**
 14 **ever any discussion about problems that might arise**
 15 **during the sweat lodge ceremony?**
 16 **A. Prior to that discussion?**
 17 **Q. Or at any time.**
 18 **A. I was told some stories from the past**
 19 **that was it.**
 20 **Q. Without telling me what they said, who**
 21 **told you stories?**
 22 **A. Megan.**
 23 **Q. When did you have a conversation --**
 24 **you're talking about Megan Fredrickson?**
 25 **A. Yes.**

1 **Q. When did you have a conversation with**
 2 **Megan Fredrickson?**
 3 **A. When I was briefed about Spiritual**
 4 **Warrior at the office a month and a half prior to**
 5 **the event.**
 6 **Q. And did what you learned from Megan**
 7 **affect your decision to attend Spiritual**
 8 **Warrior 2009?**
 9 **A. To attend the entire event, no.**
 10 **Q. Did it affect your decision about where**
 11 **you would be stationed during Mr. Ray's sweat lodge**
 12 **ceremony?**
 13 **A. Yes.**
 14 **Q. How did it affect you?**
 15 **A. I knew that I didn't want to go in.**
 16 **Q. Did anybody try to force you to go into**
 17 **the sweat lodge?**
 18 **A. No.**
 19 **Q. How was it that you got a place outside?**
 20 **A. Because it was known that I didn't want**
 21 **to go in. I said I didn't want to go in, and they**
 22 **said okay. And I had Red Cross training, so it**
 23 **would be good for me to be outside.**
 24 **Q. During that briefing when you indicated**
 25 **that you had Red Cross training, did anybody else**

1 **indicate they had Red Cross training?**
 2 **A. No.**
 3 **Q. Do you know if anybody else on scene on**
 4 **October 8th, 2009, had Red Cross training?**
 5 **A. I do not know.**
 6 **Q. I'm going to put up on the overhead**
 7 **Exhibit 146.**
 8 **Do you recognize that photo?**
 9 **A. Yes.**
 10 **Q. Do you recognize the people in that**
 11 **photo?**
 12 **A. I believe I do.**
 13 **Q. Do you want me to bring the actual photo**
 14 **up to you and see if that will --**
 15 **A. No.**
 16 **Q. You can tell. Point to and tell the jury**
 17 **who you recognize.**
 18 **A. Of course, I can't see their faces. But**
 19 **from what I can see, this looks like -- this one**
 20 **here in the black -- that looks like Michelle**
 21 **Goulet, from what I can see.**
 22 **Q. Okay.**
 23 **A. This one right here might be Carly.**
 24 **Q. Who is Carly?**
 25 **A. She was somebody who worked prior to me**

1 **being there, in the same position. It looks like**
 2 **Carly from here, but I can't really tell. This**
 3 **one, from that angle anyway, looks like Barb**
 4 **Waters. And, again, it's her back.**
 5 **Q. Do you recognize anybody else?**
 6 **A. No.**
 7 **Q. Do you know whether or not this**
 8 **photograph was taken in October of 2009?**
 9 **A. It was not.**
 10 **Q. Do you believe it was taken on a previous**
 11 **occasion?**
 12 **A. Yes.**
 13 **Q. Does this look similar to what you saw in**
 14 **October of 2009?**
 15 **A. In some ways yes. In some ways no.**
 16 **Q. In what ways is it similar?**
 17 MR. KELLY: Your Honor, Judge, I believe we
 18 need to approach.
 19 THE COURT: Overruled.
 20 You may answer that.
 21 MR. KELLY: Judge, then --
 22 THE COURT: What's the objection, Mr. Kelly?
 23 MR. KELLY: The prosecutor misstated the
 24 evidence.
 25 MS. POLK: Your Honor, I haven't stated the

1 evidence at all. I just asked the witness what she
2 recognizes or doesn't recognize.

3 THE COURT: For this admitted exhibit, 146?

4 MS. POLK: Yes.

5 THE COURT: Okay. Ms. Polk, please start
6 again and pose a question.

7 Q. BY MS. POLK: What about this photograph
8 looks similar to what you recall from October
9 of 2009?

10 A. Well, they -- it's a sweat lodge. And as
11 they had in 2009, there are also chairs outside of
12 it. And as the event began, or as the event
13 begins, people stand on the outside as they call
14 holding space. That's kind of what it looks like
15 they're doing there.

16 Q. And what about this photograph does not
17 look similar to what you recall from 2009?

18 A. Just kind of the shape. It's very hard
19 to answer that question. Just a different layout.

20 Q. Do you see yourself in this photograph?

21 A. No.

22 Q. At what point did you -- let me start
23 over again. You've testified that you gathered
24 donations. You gave it to -- the donations to
25 Mr. Mercer. And then what did you do?

1 A. I joined the group at a -- they were away
2 from the sweat lodge. And they had a fire ceremony
3 taking place where they burned their recapitulation
4 journals. I joined that gathering over there.

5 Q. And then what did you do?

6 A. And then I listened to James's speech on
7 the burning of the recapitulation and watched and
8 listened as he explained how the sweat lodge works
9 and how everybody is supposed to enter. And I
10 watched them as they all went in.

11 Q. During that speech by Mr. Ray, where were
12 the participants?

13 A. They were all gathered around the small
14 fire.

15 Q. Do you recall Mr. Ray at that time saying
16 anything about the heat inside the tent?

17 A. Just continuing to say how hot it was.
18 It was going to be hotter than any sweat lodge they
19 may have experienced. That's it.

20 Q. Now, Ms. Martin, you testified that at
21 the briefing that occurred back at Crystal Hall you
22 were not present?

23 A. Correct.

24 Q. And so anything you heard Mr. Ray say
25 about the conditions inside the sweat lodge, when

1 did you hear that?

2 A. I would walk into the hall, and I would
3 come out. I was moving around quite a bit.

4 Q. Is it your testimony that Mr. Ray said
5 additional things about the conditions inside the
6 sweat lodge down at the fire where everybody
7 gathered?

8 A. I was there when he asked Mr. Mercer
9 about the fire itself.

10 Q. What did you hear him ask Mr. Mercer --
11 what did you hear Mr. Ray ask Mr. Mercer about the
12 fire?

13 A. He asked something about the heat level
14 in the particular sweat lodge to Mr. Mercer.

15 Q. I'm going to put up on the overhead
16 Exhibit 45.

17 Do you recognize that photograph?

18 A. I've not seen this photograph before, but
19 I recognize what it's supposed to be.

20 Q. Okay. Now, you've testified about a
21 conversation between Mr. Mercer and Mr. Ray. Where
22 were you when you heard that conversation?

23 A. I was around this fire here along with
24 the other participants.

25 Q. And where was Mr. Ray?

1 A. I think he was just a couple of people
2 away from me, if I'm not mistaken.

3 Q. Where was Mr. Mercer?

4 A. Mr. Mercer was standing kind of close to
5 his own fire and kind of worked his way over. And
6 he was speaking with Mr. Ray -- you know -- from
7 the manning point of his fire.

8 Q. Was anybody else speaking during the
9 conversation between Mr. Ray and Mr. Mercer?

10 A. I don't recall.

11 Q. Do you see Mr. Mercer in this picture?
12 Understanding that you haven't seen this photo
13 before.

14 A. I don't know if I would recognize him if
15 I saw him in this courtroom.

16 Q. Who did you hear -- who started the
17 conversation between Mr. Mercer and Mr. Ray?

18 A. I don't recall.

19 Q. What do you recall from that
20 conversation?

21 A. It was just a kind of an overall -- I
22 think he was -- Mr. Ray was asking him -- you
23 know -- is the fire ready? Yes, it is. That kind
24 of thing. It was ceremonial, that type of thing.

25 Q. What do you recall Mr. Mercer saying

1 about the fire?

2 MR. KELLY: Your Honor, calls for a hearsay
3 response.

4 THE COURT: Ms. Polk?

5 Ms. Polk: Your Honor, I'll rephrase the
6 question.

7 THE COURT: Okay.

8 Q. BY MS. POLK: After Mr. Mercer said
9 something, did you hear Mr. Ray make a comment
10 about the heat or the fire?

11 A. Yes.

12 Q. Tell the jury what you heard Mr. Ray say.

13 A. I don't remember the exact words. I know
14 that he was talking about how hot the fire was.
15 Like, hotter than -- Mr. Ray's fire is hotter than
16 anyone else's type of thing.

17 Q. What do you recall happening next?

18 A. Everybody going into the sweat lodge.

19 Q. Where did you go as participants entered
20 the sweat lodge?

21 A. My spot. I was stationed outside the
22 sweat lodge just outside the door right there.

23 Q. Did you have a particular job there?

24 A. Other than holding spaces, as Marta Reis
25 put it, I was just there for people to come out to

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1 offer them water and hose them down.

2 Q. How long did you hold that spot by the
3 door?

4 A. Until after the first round.

5 Q. Tell the jury what you remember about the
6 first round.

7 A. I heard James on the inside doing his
8 chanting and his -- you know -- starting of it. I
9 was standing right outside, so I could hear him
10 speaking and talking and starting the ceremony.

11 Q. Do you know who the Dream Team members
12 are who went inside the sweat lodge?

13 A. Yes. Aaron was inside, Liz Neuman, Mark
14 Rock. I can't remember. I think the rest of us
15 were outside, if I'm not mistaken.

16 Q. Do you know if Mr. Ray had other staff or
17 employees inside the sweat lodge?

18 A. Yes.

19 Q. Who did he have?

20 A. Greg Hartle was inside. Megan
21 Fredrickson was in there. Josh Fredrickson, Taylor
22 was in there. Michael Barber was in there, and
23 Mr. Ray himself, of course.

24 Q. Did you see how that ceremony began?

25 A. I didn't see it because, of course, I was

1 on the outside. They were on the inside. I heard
2 Mr. Ray starting his ritual -- you know -- talking
3 the way he did, from the north corners and this
4 angel from the south and that one.

5 Q. Do you know how long that first round
6 lasted?

7 A. No.

8 Q. What happened after that first round?
9 Did the door open?

10 A. Yes.

11 Q. And then what happened?

12 A. Mr. Mercer would take a rock, and he
13 would take it out of the very hot fire. He would
14 put it on, like, some sort of a place, and they
15 would sweep it with a little broom.

16 It was passed in and something about the
17 grandfathers. And it would be passed to, like, a
18 pitchfork on the inside. Aaron would take it from
19 Mr. Mercer from the pitchfork to another pitchfork
20 or shovel. And then they would move it inside to
21 the sweat lodge and put it onto the fire.

22 Q. While that was occurring, did you see
23 whether participants left the sweat lodge?

24 A. Yes. I recall people coming out of the
25 sweat lodge. I don't recall how many. I do

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1 remember one in particular.

2 Q. Was there a process to get the hot rocks
3 in at the same time that participants were coming
4 out so that you wouldn't have a collision?

5 A. That's a great question. And I don't
6 recall how that was organized.

7 Q. Do you recall how water got into the
8 sweat lodge?

9 A. Yes. There was a little bucket of water
10 outside the sweat lodge right around here. And
11 Marta Reis, right here, would pass the water in to
12 James, who was sitting right inside there.

13 Q. How did that bucket get filled with
14 water?

15 A. We had hoses.

16 Q. Who had the job of refilling the bucket?

17 A. I would assume Marta.

18 Q. Did -- at the conclusion of the first
19 round, did you observe whether any participants
20 came out?

21 A. Yes.

22 Q. And what did you observe -- how many
23 participants came out?

24 A. I don't recall.

25 Q. What did you observe about the

1 participants that came out?
 2 **A. The one participant that I was locked**
 3 **into at that moment was -- I don't recall her name.**
 4 **But she sat down and she was very disoriented and**
 5 **very nervous and --**
 6 **Can I tell you what she said?**
 7 **Q. Yes.**
 8 **MR. KELLY: Your Honor.**
 9 **I'll withdraw my objection.**
 10 **THE COURT: Okay. You may answer.**
 11 **THE WITNESS: She said, this is bad. This**
 12 **feels really bad. I don't like this. I want to**
 13 **go. I want to go back to the way I was. This is**
 14 **wrong. She was very in a state.**
 15 **Q. BY MS. POLK: Who tended to her?**
 16 **A. I did.**
 17 **Q. What did you do for her?**
 18 **A. Just sort of touched her arm and said,**
 19 **you're okay. You're out. You made it out. You're**
 20 **doing well. You're not in there.**
 21 **No. I'll never be the same. I will**
 22 **never be the same. I can't -- she kept saying over**
 23 **and over again, this was bad. This was just so**
 24 **bad.**
 25 **I kept touching her, touching her hands,**

1 **and holding her and saying, you're okay. You're**
 2 **okay. Come on. Have some water. Cool down.**
 3 **You're fine. You're fine. I just kept soothing**
 4 **her the best I could.**
 5 **Q. Where did you put her?**
 6 **A. I put her on a chair right over in this**
 7 **area.**
 8 **Q. Did you continue to track her or keep**
 9 **tabs on her for the rest of the ceremony?**
 10 **A. Well, at a certain point I couldn't. I**
 11 **did for a little while.**
 12 **Q. How many rounds would you say you kept**
 13 **tabs on her?**
 14 **A. It became very difficult to notice one**
 15 **round from the next.**
 16 **Q. When that first participant came out and**
 17 **said the things you said, where was Mr. Ray?**
 18 **A. He was inside the sweat lodge.**
 19 **Q. Do you recall if the door was opened or**
 20 **closed?**
 21 **A. My focus was on her.**
 22 **Q. Did Mr. Ray ever come out and check up on**
 23 **this participant?**
 24 **A. No.**
 25 **Q. Do you recall the beginning of the second**

1 round?
 2 **A. Not really. Specifically, no.**
 3 **Q. What was your reaction to this**
 4 **participant who came out after the first round and**
 5 **the things she was saying?**
 6 **A. I was taken a bit aback. I was kind of**
 7 **surprised that she felt so strongly, that she was**
 8 **so unhappy. But I was okay at that stage.**
 9 **Q. What do you recall happening next,**
 10 **Ms. Martin?**
 11 **A. I had to run up to my room and put on**
 12 **some shorts. Because it was colder earlier and it**
 13 **was getting warmer. I ran up to my room. I came**
 14 **back down, and there were a lot of people out by**
 15 **that time.**
 16 **Q. Do you recall today when it was that you**
 17 **left to run up to your room?**
 18 **A. It was right after -- I recall it being**
 19 **right after that first round when it seemed like**
 20 **everything was okay.**
 21 **Q. How far was your room from the sweat**
 22 **lodge?**
 23 **A. I'm not sure. I can run to my room**
 24 **within five minutes.**
 25 **Q. I'll just put this map back up --**

1 Exhibit 140.
 2 Do you see where your room was on this
 3 exhibit?
 4 **A. Yes. You want me to trace my route?**
 5 **Q. Yes.**
 6 **A. I went from the sweat lodge to my room**
 7 **right there and back.**
 8 **Q. And did you walk or did you take a golf**
 9 **cart -- or did you -- how did you get there?**
 10 **A. I think I ran on foot.**
 11 **Q. When you came back, describe for the jury**
 12 **what you saw.**
 13 **A. When I came back, Lisa Rondan sort of ran**
 14 **up to me and said, what do you know about burns?**
 15 **Because Lou Caci came out and his arm is burned.**
 16 **And they put his hand in a bucket of ice water.**
 17 **What do you think about that?**
 18 **I said, well -- and she was, like, tell**
 19 **me what. I said, well, what I learned was that you**
 20 **don't put a burn in ice water. You clean it and**
 21 **you keep it dry.**
 22 **And she goes, good. I need you to go**
 23 **take care of him.**
 24 **I said, okay.**
 25 **So I just kind of, like, sprung into**

1 action. And I went over to him -- you know.

2 Q. Where was Lou when you went to him?

3 A. He was sitting just kind of right in
4 front of the door at that moment. He was sitting
5 on the ground in front of the door. I'm not sure
6 of the time frame or if that was the very next
7 thing. It was one of those -- shortly thereafter,
8 after I came back, that that was going on.

9 Q. What did you do for Lou Caci?

10 A. I had his arm. I took it out of the ice
11 bucket. I kind of tapped it, dried it off. I had
12 some gauze. I wrapped his arm in some gauze, and
13 he was saying, I need to go back in. I need to go
14 in.

15 I go, no, no, no, no. You're great.
16 You're a warrior. You did it. You're fine now.
17 You can stay out here.

18 No, no, no. I need to go in. I need to
19 finish.

20 I said, no. You don't.

21 I was, like, just trying to get him to
22 calm down, and it wasn't working. He was very
23 agitated.

24 Q. Where did you get the gauze from that you
25 used to treat him?

1 A. I had a little first-aid kit that I
2 brought down with me.

3 Q. Where did you get the first aid from?

4 A. Something we had in the office.

5 Q. At the office at JRI?

6 A. JRI office.

7 Q. What was in that first-aid kit?

8 A. Gauze, Band Aids, gloves, rubber gloves,
9 tape, some ice-bags. You break them and put them
10 on something. That type of thing.

11 Q. What did you observe about Lou's arm as
12 you were attending to it?

13 A. I observed that the skin was just gone
14 from his forearm. And it was sort of dripping off
15 of his elbow, and his leg too was just raw. There
16 was no actual skin. It was just red, raw.

17 Q. How long do you believe you were tending
18 to Lou Caci?

19 A. Again, it's so hard to know time frames
20 because it was just, I was here. I was there. I
21 was just running around taking care of people.
22 It's really hard to make that type of
23 determination.

24 Q. When you came back from changing into
25 shorts and Lisa Rondan asked you to take care of

1 Lou Caci, did you observe anything else at that
2 time?

3 A. Yeah. I mean, there were a lot more
4 people out. They were laying on the tarps. It was
5 somewhere around -- in that time frame when Dennis
6 came out. And he was screaming at the top of his
7 lungs, vomiting everywhere. It was a wild scene.

8 Q. Who else do you recall taking care of
9 next after Lou Caci?

10 A. I took care of so many people that I -- I
11 just went from one person to the next to the next
12 giving -- hosing them down, giving them electrolyte
13 water, just trying to cool them off, trying to warm
14 them up. They were shivering. A lot of people
15 were talking.

16 They were in altered states in varying
17 stages of things. Some people weren't breathing.
18 And I was trying to get them to at least
19 acknowledge me or talk to me. Just so many people.

20 Q. Do you recall when it was that you became
21 aware of Dennis and the screaming?

22 A. Yes. He was very loud saying he doesn't
23 want to die, screaming and just being crazy. And I
24 was very concerned. And I had really, like, a
25 stern look on my face. I was looking around and

1 going, oh, my gosh. What's going on.

2 I was told just get that look off of your
3 face. The people are going to think something is
4 wrong. And you need to be calm, and you can't have
5 that look of alarm on your face.

6 And I'm, like, oh my gosh. There is
7 something wrong. This does not seem right. And
8 she goes, it is fine. This is normal. It's normal
9 for people to be this way.

10 Q. Who told you to get that look of alarm
11 off your face?

12 A. Marta Reis.

13 Q. Where were you -- do you recall? -- when
14 Marta told you to get that look off your face?

15 A. I was right around there. I was
16 trying -- Dennis was on that tarp there. There was
17 a lot of activity taking place right there.

18 Q. Who told you that this was normal, what
19 you were seeing?

20 A. Marta.

21 Q. And how did you respond to that?

22 A. Incredulously. I couldn't believe that
23 this was normal. But they said this is normal.
24 This is what goes on. These people are having
25 their own experiences. You need to let them

1 experience what they're going through. You need to
2 not try to alter that. This is their special
3 experience, their individual experience. So I
4 shouldn't be alarmed, they said.

5 Q. When you -- first of all, do you know
6 Dennis's last name?

7 A. I can't pronounce it. It starts with an
8 "M."

9 Q. Is it Mehravar? Does that sound right?

10 A. Maybe.

11 Q. When you became of Dennis and he was
12 streaming, did you personally tend to him?

13 A. No.

14 Q. Did you see who took care of Dennis?

15 A. No.

16 Q. How loud was his screaming?

17 A. Very loud. Screaming at the top of his
18 lungs, I don't want to die. Like that. Just shook
19 me inside and out.

20 Q. Did you ever see Mr. Ray respond in any
21 way to Dennis's screaming?

22 A. No.

23 Q. How long was Dennis screaming for?

24 A. He would scream for a while. And then I
25 think he might have passed out. And then he would

1 vomit all over the tarp, and then he would start up
2 again. This kind of went on. It kind of stopped
3 and started several times.

4 Q. Did you do any cleaning up of the vomit?

5 A. No. I saw people had hoses, and they
6 were trying to hose it down. I was sort of working
7 on other people, working through everyone trying to
8 get them -- so I was aware of it. But I wasn't
9 really hands on in that situation.

10 Q. Did you become aware of what happened to
11 Dennis ultimately?

12 A. No.

13 Q. What is your last memory of Dennis?

14 A. My last memory of Dennis was he was
15 sitting on the tarp in a calmer state. And he
16 talked to James as James came out of the sweat
17 lodge.

18 Q. James Ray?

19 A. Yes.

20 Q. What did you hear Mr. Ray say to Dennis?

21 A. I heard Dennis tell him something like, I
22 died and I came back, something to that effect.
23 And I heard Mr. Ray was, like, right on, man -- you
24 know. Because that was part of the experience.
25 You know -- part of your body dies and then you

1 become a new person at the end. So I think that he
2 might have felt that that was a breakthrough
3 experience for Dennis.

4 Q. Where was Mr. Ray when he said that to
5 Dennis -- this "right on"?

6 A. He had come out of the sweat lodge. He
7 made a right-hand turn toward where I had the water
8 and so on. There. So he kind of walked into a
9 tent that you can't see here. But it's just, like,
10 there.

11 So if Dennis is standing there, it was as
12 if James passed through the middle walking toward
13 the tent area with the water and so on.

14 MS. POLK: Your Honor, I see that it's noon.
15 Would you like me to stop?

16 THE COURT: Thank you, Ms. Polk. We'll do
17 that.

18 Ladies and gentlemen, we'll take the noon
19 recess. Please remember the admonition. Please be
20 reassembled at 1:30.

21 Ms. Martin, you are excused at this time.

22 We will resume shortly after 1:30.

23 Remember the admonition, ladies and gentlemen.

24 Ms. Martin, remember the rule of
25 exclusion that I discussed with you.

1 I'm going to ask the parties to remain a
2 moment.

3 Thank you.

4 (Proceedings continued outside presence
5 of jury.)

6 THE COURT: This is before I came back on the
7 bench after the break. I received a bench
8 memorandum regarding admissibility of evidence
9 relating to lesser-included offense.

10 Did you get that on the defense?

11 Okay.

12 Really relates to the issue with Mr. Pace
13 specifically. Goes back to, well, from the 404(b)
14 and how this all started with the argument being
15 presented to the Court that there should be certain
16 404(b) evidence relating to manslaughter.

17 And that's what the original ruling dealt
18 with. And I just noted that there hadn't been any
19 discussion of the lesser included.

20 This concept is -- it's a difficult one.

21 And in the memorandum the state's indicating that
22 there isn't really any law that they could find
23 directly. But the state just, basically, has to be
24 able to have evidence admitted that might go or may
25 clearly go only to a potential lesser included. So

1 I certainly would want this addressed. There is
2 law cited in that.

3 Ms. Polk, I'd like them to have a copy as
4 soon as possible.

5 MS. POLK: Your Honor, I'll make sure that has
6 happened if it hasn't happened.

7 THE COURT: I just wanted to note that we had
8 a somewhat lengthy bench conference on the nature
9 of the objections, Mr. Kelly making the record on
10 the number of objections, believing that many
11 questions are asked clearly without foundation.

12 And we've had a discussion as to that.
13 I'm just going to really direct that the parties be
14 conscious of the need for foundation. That when
15 there is a question, such as how did he prepare for
16 this, that that can come -- can result in any kind
17 of an answer poorly. You could have an answer like
18 that to the question.

19 So I'm going to ask that people be
20 careful with the questions presented, that there's
21 foundation for the question, that the witness has
22 knowledge and that it's not a question that just,
23 essentially, supplies an answer or may lead to an
24 improper response.

25 We'll recess, then, and start at 1:30.

1 Thank you.

2 (Recess.)

3 (Proceedings continued in the presence of
4 jury.)

5 THE COURT: The record will show the presence
6 of the defendant, Mr. Ray, the attorneys, the jury,
7 the witness. And Ms. Martin is on the witness
8 stand.

9 Ms. Polk, when you're ready.

10 MS. POLK: Thank you, Your Honor.

11 Q. Good afternoon, Ms. Martin.

12 A. **Good afternoon.**

13 Q. I just want to take a couple moments and
14 look at some photographs and talk about your
15 testimony a little bit.

16 MR. KELLY: Your Honor, stipulate to 311.

17 THE COURT: 311 is admitted.

18 (Exhibit 311 admitted.)

19 Q. BY MS. POLK: Ms. Martin, I put
20 Exhibit 311 on the overhead. Do you recognize
21 that?

22 A. **I recognize the contents.**

23 Q. And what do you recognize it to be?

24 A. **They are the contents of the first-aid**
25 **kit.**

1 Q. Who compiled that first-aid kit?

2 A. **I usually do.**

3 Q. You did for Spiritual Warrior 2009?

4 A. **Uh-huh.**

5 Q. As part of the preparation for Spiritual
6 Warrior 2009, was there any information provided
7 about the -- about heat-related injury such as heat
8 stroke?

9 A. **No.**

10 Q. Did anybody ever talk to you about
11 providing information to participants about
12 heat-related injuries such as heat stroke?

13 A. **Not that I'm aware of.**

14 Q. And you testified earlier --

15 MR. KELLY: Judge, I would stipulate to 316.

16 THE COURT: 316 is admitted.

17 (Exhibit 316 admitted.)

18 Q. BY MS. POLK: I'm going to put 316 up on
19 the overhead.

20 You testified about an area that was not
21 in the photograph. Do you recall that testimony?

22 A. **Yes.**

23 Q. Does this photograph show an expanded
24 area of the sweat lodge?

25 A. **Yes.**

1 Q. What do you recognize this over here to
2 be?

3 A. **That was the area where we contained the**
4 **beverages and the fruits. And also the**
5 **participants kept their personal belongings there**
6 **as well -- their shoes.**

7 Q. I'm going to put up on the overhead,
8 Exhibit 318.

9 Do you recognize that to be a closer view
10 of the previous exhibit?

11 A. **Yes.**

12 Q. You had told the jury that you oversaw
13 the gathering of the liquids and the fruits?

14 A. **Yeah. I coordinated that with Angel**
15 **Valley. Yes.**

16 Q. Did you enter this area in doing so?

17 A. **No. More like they -- we discussed it**
18 **being put down there.**

19 Q. I'm going to put up on the overhead,
20 Exhibit 321.

21 Do you recognize the items in that
22 photograph?

23 A. **Yes.**

24 Q. Are those the items that you coordinated
25 with Angel Valley to provide?

1 **A. Yes. That's what I communicated with**
 2 **them about putting it there in place.**
 3 **Q.** Did you ever drink anything from that
 4 comfort station?
 5 **A. No.**
 6 **Q.** Did you ever eat anything from the
 7 comfort station?
 8 **A. No.**
 9 **Q.** Do you know when it was that anybody at
 10 the scene, including participants, was permitted to
 11 drink or eat from the comfort station?
 12 **A. I believe they were permitted to partake**
 13 **anytime they wanted to.**
 14 **Q.** Did you ever see anyone partake from the
 15 comfort station before entering the sweat lodge?
 16 **A. No.**
 17 **Q.** You testified that that comfort station
 18 area was also an area where personal belongs were
 19 put?
 20 **A. That's correct.**
 21 MR. KELLY: Judge, I would stipulate to 279.
 22 THE COURT: 279 is admitted.
 23 (Exhibit 279 admitted.)
 24 **Q.** BY MS. POLK: I'm going to put 279 on the
 25 overhead.

1 Do you recognize that?
 2 **A. Yes.**
 3 **Q.** And what do you recognize that to be?
 4 **A. That was the table where people put their**
 5 **matching water bottles, their personal effects.**
 6 **Q.** Do you know who these backpacks belong
 7 to?
 8 **A. No.**
 9 **Q.** And you talked about personal, matching
 10 bottles. Where did participants get the bottles
 11 from?
 12 **A. When we first arrived, we had a gift bag**
 13 **so to speak, a backpack. Inside of it we had some**
 14 **different items, and the matching bottle was one of**
 15 **them.**
 16 **Q.** The backpack that you issued to
 17 participants when they arrived -- do you see that
 18 backpack in this photograph?
 19 **A. It was all black. So this yellow one --**
 20 **I can't tell if that has yellow on it or if the**
 21 **black one I'm referring to is right behind it. I**
 22 **can't see if one of our Spiritual Warrior ones are**
 23 **on here. I can't tell.**
 24 MR. KELLY: Judge, I would agree to 298.
 25 THE COURT: 298 is admitted.

1 (Exhibit 298 admitted.)
 2 **Q.** BY MS. POLK: I'm going to put 298 on the
 3 overhead.
 4 Do you recognize that bottle in general?
 5 **A. In general, yes.**
 6 **Q.** What do you recognize the bottle to be?
 7 **A. That was the Spiritual Warrior matching**
 8 **bottle that was given out at that event.**
 9 **Q.** And are you able to read what's written
 10 on this bottle?
 11 **A. Liz.**
 12 **Q.** And I'm going to back up one exhibit.
 13 The tags that are on these bottles, on that
 14 exhibit -- were they on the bottles when issued to
 15 participants at the beginning of Spiritual Warrior?
 16 **A. Yes. They were able to use one of them**
 17 **to help identify their own bottle so they didn't**
 18 **get mixed up.**
 19 **Q.** Participants were able to put labels on
 20 their bottles?
 21 **A. Uh-huh.**
 22 THE COURT: That was a yes?
 23 THE WITNESS: Yes.
 24 **Q.** BY MS. POLK: I'm going to show you
 25 what's been marked into evidence as Exhibit 189.

1 Do you recognize that?
 2 **A. Yes.**
 3 **Q.** And what do you recognize that to be?
 4 **A. That's the Dream Team expectations where**
 5 **we let the Dream Team know what their**
 6 **responsibilities are for each activity.**
 7 **Q.** Do you know who put together that
 8 particular pamphlet?
 9 **A. On the whole, Megan.**
 10 **Q.** And how do you know that?
 11 **A. Because that's what she did in the**
 12 **office. She worked on these things.**
 13 **Q.** When did you first see that sheet "Dream
 14 Team Expectations"?
 15 **A. We would start putting together the Dream**
 16 **Team Expectations when we started to prep and get**
 17 **ready for the event or deciding who was going to be**
 18 **our Dream Team members.**
 19 **Q.** And were you part of that?
 20 **A. Yes.**
 21 **Q.** I'm going to put up on the overhead the
 22 third page of this exhibit, which is 189. And this
 23 is the sheet with the Dream Team Expectations. And
 24 I'm going to zoom in to the part where it says
 25 sweat lodge. And I'm going to read out loud.

1 You will assist participants as they
2 enter and exit the sweat lodge. If you are inside
3 the sweat lodge, you must remain alert and ready to
4 help the entire time.

5 Was there ever any discussion that you
6 were present for about the expectation of Dream
7 Team members inside the sweat lodge?

8 **A. Beyond that, really, no.**

9 **Q.** Were the Dream Team members told they
10 needed to remain alert and ready to help the entire
11 time?

12 **A. Yes.**

13 **Q.** Was there ever any discussion about what
14 a Dream Team member was to do if they did not feel
15 alert?

16 **A. I don't recall.**

17 **Q.** Now, I'd like to take you back to
18 Mr. Ray's sweat lodge ceremony on October 8th
19 of 2009. Before we broke for lunch, you were
20 testifying about the events that were transpiring
21 and what you were doing to assist.

22 I want to take you back to the end of the
23 first round when you said a young woman came out
24 and you assisted her.

25 Do you recall that testimony?

1 **A. Yes.**

2 **Q.** Did you touch her?

3 **A. Yes.**

4 **Q.** Do you recall how she felt to the touch?

5 **A. No.**

6 **Q.** Did you ever see anybody reentering the
7 sweat lodge?

8 **A. Yes.**

9 **Q.** And on what occasions?

10 **A. After they'd come out and cooled off, I**
11 **guess, they would go back in.**

12 **Q.** Did you ever see anybody who appeared not
13 to want to reenter?

14 **A. Not really. You mean people who went in**
15 **that didn't want to or people that just did not**
16 **want to?**

17 **Q.** People who went in that did not want to.

18 **A. No. I don't think so.**

19 **Q.** Did you see people on the outside who did
20 not want to go in?

21 **A. Yes.**

22 **Q.** And tell the jury what you saw.

23 **A. I think that many of the people, when**
24 **they exited the sweat lodge, they experienced what**
25 **they did. They weren't finished, so they were**

1 **compelled go back in there. I know there was a lot**
2 **of discussion about going back in. Many people**
3 **felt that they were finished.**

4 **Q.** Who did that discussion occur between?

5 **A. I know there was a newlywed couple there.**
6 **I don't recall their names, but I remember them**
7 **talking about if they wanted to go back in or not.**
8 **I remember the girl saying, I don't want to go back**
9 **in. I'm done.**

10 **Q.** When we left off at lunchtime, you just
11 finished testifying about Dennis Mehravar. I don't
12 recall if I asked you. What was your last contact
13 with Dennis?

14 **A. I didn't have a lot of direct contact**
15 **with him. It was just my observations of just**
16 **being in the general vicinity.**

17 **Q.** What do you recall as your last vision or
18 view of Dennis?

19 **A. Of the high-five between he and James**
20 **Ray.**

21 **Q.** Do you know what happened to Dennis after
22 that high-five?

23 **A. I do not.**

24 **Q.** Do you recall, Ms. Martin, approximately
25 how many people you attended to surrounding the

1 sweat lodge ceremony?

2 **A. Many. I can't -- I wasn't, of course,**
3 **counting. I wasn't in that mode of thinking, but I**
4 **would say 20 or 30 people at various points in**
5 **time.**

6 **Q.** And what did you observe about the 20 or
7 30 people in terms of physical condition?

8 **A. Again, various states of physical**
9 **condition. Some people just laid there. They were**
10 **very shallow breathing. They looked like an animal**
11 **that you'd see on the side of the road that's been**
12 **hit by a car, just barely hanging in there.**

13 **A lot of people were like that. They**
14 **just -- and I would go up to them and lay down next**
15 **to them and just try to talk to them and -- you**
16 **know -- coax them into speaking to me. So I made**
17 **sure that they were coherent enough to at least**
18 **acknowledge me and agree to have some water or**
19 **something. But they were -- many stages.**

20 **Q.** Were you concerned about what you were
21 seeing?

22 **A. Yes. I'd never seen anything like that**
23 **before.**

24 **Q.** Did you consider stopping the ceremony?

25 **A. I talked about it.**

1 Q. Who did you talk to about it?

2 A. Well, to a certain extent, Marta. I
3 mean, I didn't talk to her about it. I was very
4 alarmed. And she told me it was fine.

5 She was sort of my coach for this. She
6 was the one who I looked to for answers. And she
7 told me everything was fine when she saw I was
8 clearly agitated. And then Amayra Hamilton. She
9 came out and she said, oh my gosh. You poor thing.

10 I said, I've never seen anything like
11 this in my life. And she hugged me. And we just
12 both embraced each other. And -- you know -- that
13 was the conversations I was having about it.

14 But she said -- you know -- it's been
15 done before. I know it's been done before, so
16 obviously I didn't know what it involved. I wasn't
17 prepared for the magnitude of it. I didn't know it
18 was going to escalate to the point that it did at
19 that time.

20 But just on the most basic level, it was
21 shocking to me how extreme it seemed. But
22 everybody who had been through it before seemed to
23 think it was okay.

24 Q. When you say "everybody," specifically
25 who?

1 A. The other Dream Team people who had been
2 there, all the other -- this was my first time ever
3 going to this event and participating with a sweat
4 lodge. Just everybody who was around me that had
5 seen it before didn't seem quite as alarmed as I
6 was.

7 Q. Did you consider calling 9-1-1?

8 A. I couldn't call 9-1-1 because I had no
9 phone. There was no phone coverage. Any thought
10 of that would be me leaving the scene and going to
11 my room and taking a car and going to the main
12 highway. And I was more in the mode of saving
13 lives at that point.

14 Q. At some point did you open a part of the
15 sweat lodge itself?

16 A. There was a point when Mr. Mercer's wife
17 came to me and she said, there is something --
18 there might be somebody who has fallen in back of
19 the sweat lodge. I think there's a head back
20 there.

21 And so I ran with her to the back of the
22 sweat lodge, and we were feeling around the back
23 part of the sweat lodge. And we found what she
24 thought was the head that had collapsed or gone
25 down. And we opened up the back of the tent and

1 felt around and discovered it was a rock. And so
2 we were, like, okay. It's a okay. So then I went
3 back to the front again. So yes.

4 Q. Do you recall Mr. Mercer -- or
5 Mrs. Mercer's first name?

6 A. No.

7 Q. Do you recall what part of the ceremony
8 it was she came to you and said what she said?

9 A. No.

10 Q. And what did she say to you?

11 A. She said she thought that somebody had
12 collapsed inside the sweat lodge. And that she
13 thought she saw their head or she thought they
14 fell. And she wanted to see if I could help her
15 pull the person out. If they passed out, help
16 attend to the situation.

17 Q. Did Mrs. Mercer tell you why she thought
18 someone collapsed inside the sweat lodge?

19 A. She might have. I don't recall.

20 Q. Do you have any idea what stage in terms
21 of the rounds this occurred?

22 A. No.

23 Q. You told the jury that you and
24 Mrs. Mercer went and -- to a part of the sweat
25 lodge. Do you recall, looking at what's in the

1 overhead, Exhibit 145, what part of the sweat lodge
2 you went to?

3 A. The complete back side of that.

4 Q. Of what we see?

5 A. Yes.

6 Q. What did you and Mrs. Mercer do?

7 A. We felt around. We kind of stuck our
8 hand underneath trying to see if there was a person
9 there. And we found a rock and another rock. And
10 we just couldn't find the person that she thought
11 had collapsed. And so we both thought -- she said
12 I guess I was wrong.

13 Q. Did you actually lift up the side of the
14 sweat lodge in that process?

15 A. Yes.

16 Q. Do you know if that allowed light to go
17 into the sweat lodge?

18 A. I do not know.

19 Q. You do not know?

20 A. I do not know.

21 Q. How long was it that you were feeling
22 around to see if somebody had collapsed?

23 A. It was pretty quick.

24 Q. Did there come a point in time that you
25 were aware of Lou Caci going back in the sweat

1 lodge?

2 A. Yes.

3 Q. When was that?

4 A. Right after I finished working on him.

5 Both Jennifer Haley and I were telling him he
6 shouldn't go back in. She got involved in the
7 conversation. And Marta Reis said, let him have
8 his own experience. If he wants to go back in,
9 don't try to convince him that he shouldn't, if
10 that's what he feels compelled to do.

11 So he almost immediately after I finished
12 wrapping him dove right back in there.

13 Q. And in diving right back in there, do you
14 know if he went past Mr. Ray?

15 A. Well, Mr. Ray was in the entrance, so it
16 would be hard not to go past him.

17 Q. Did you see if Mr. Ray said anything to
18 Lou Caci at that time?

19 A. I don't know.

20 Q. Did you know somebody named Linnette?

21 A. I think Linnette was the name of the girl
22 who came out on the first round, who I was calming
23 down.

24 Q. Okay. And did you know someone named
25 Sidney Spencer?

1 A. Yes.

2 Q. How did you know Sidney?

3 A. Sidney -- when all the participants
4 arrived in the very beginning, I kind of watched
5 everybody drive in. So she and I kind of developed
6 a bond from that moment.

7 And so throughout the week, she and I
8 would kind of talk and touch base a little bit.
9 And then she was also one of my people that I took
10 to the Vision Quest spot.

11 And during the sweat lodge ceremony when
12 she was dragged out, I laid next to her kind of in
13 a front spoon, talking with her, stroking her,
14 trying to get her to breathe. I spent a lot of
15 time with her. I was disturbed about her. A lot
16 of people were spending time with her.

17 Q. Let's talk more specifically about Sidney
18 and her condition. You said when she was dragged
19 out -- first of all, do you know when that was?

20 A. No.

21 Q. And do you know how Sidney was dragged
22 out?

23 A. No.

24 Q. Did you -- when did you first become
25 aware that Sidney had been brought out of the sweat

1 lodge?

2 A. I was on a set of tarps that was a little
3 further away from the sweat lodge. And when they
4 were dragging people out, they were yelling to me
5 to make room for other people to be brought out.

6 And so I was moving -- literally sliding
7 bodies back and forth trying to make room and
8 accommodations for other people. So when she was
9 being dragged out, I was moving bodies around
10 trying to make room for her.

11 Q. And you talked about the tarp. I just
12 put up on the overhead, Exhibit 146. Does that
13 show where you were dragging people to?

14 A. Well, in this picture I can't see the
15 other tarp with my eyes for some reason. But it's,
16 like, there. It should be there. I mean, I see it
17 clearly here, but this is -- it was the second tarp
18 over.

19 Q. What do you recall people yelling about
20 Sidney when you became aware?

21 A. They were saying she wasn't breathing.

22 Q. What did you do then?

23 A. I just went down there and started to --
24 you know -- cooled her off, first of all, covered
25 her with towels to keep her from catching cold,

1 started to -- you know -- get her to respond.

2 Q. Why did you think you needed to cool
3 Sidney off?

4 A. Because everybody who came out of
5 there -- the real instruction we were given was to
6 cool people down, really hose them down with the
7 hose. But that was sort of standard operating
8 procedure at that point. So we knew to do that,
9 cool them down. And then they would quickly become
10 very cold -- you know -- really cold. So we would
11 cover them with towels.

12 Q. When Sidney Spencer came out, did she
13 appear hot to you?

14 A. Yes.

15 Q. And what about her appeared hot?

16 A. Well, I don't know. That's a hard one to
17 answer. I can't answer that.

18 Q. What did you use to cool Sidney down
19 with?

20 A. The hose.

21 Q. And then what did you do to warm her back
22 up with?

23 A. Towels.

24 Q. How long were you with Sidney?

25 A. I was with her initially for a little

1 while. And then other people would come and take
2 over. And I would go run around. I would actually
3 kind of -- I worked through all the people. And I
4 would go back through again to check on them and
5 kind of make my rounds. I touched her and was part
6 of her several times throughout that day.

7 Q. When you first tended to Sidney Spencer,
8 were her eyes open or closed?

9 A. Closed.

10 Q. And was she breathing?

11 A. Very shallowly, kind of like really
12 strange sounds.

13 Q. What did you do for her at that time?

14 A. Other than just trying to talk to her, of
15 course, you can't give her something to drink. She
16 couldn't even respond. Just, basically, talking in
17 her ear saying, you did it. Come back. Come and
18 talk to us. Sidney, can you hear me? This is
19 Melinda.

20 I just stroked her and did the best I
21 could to try to get her to respond or come back.

22 Q. Did Sidney ever respond to you?

23 A. No.

24 Q. And you said you had several
25 opportunities to have contact with her. Did you

1 notice any change in her condition between those
2 various opportunities?

3 A. I didn't. I wasn't able to tell the
4 difference, but the people that were also there,
5 like, they were monitoring her while I was checking
6 on other people. They would give me an update on
7 her condition. They would say, oh. Her heart rate
8 is much stronger now. And she seems to be doing
9 much better. Okay. Good.

10 That's what I was looking for. I was
11 looking for people to either get up and -- you
12 know -- be sitting up and talking again and
13 drinking water or at least -- you know -- being
14 coherent.

15 And so I was just double checking
16 everybody. And some people actually recovered to
17 the point where they got involved in the rescue
18 efforts. But Sidney never rebounded, from where I
19 could see.

20 Q. As of your last contact with Sidney
21 Spencer, had she opened her eyes?

22 A. No.

23 Q. During the time that you -- during the
24 times that you tended to Sidney Spencer, did
25 Mr. Ray ever come out and take a look at what was

1 going on?

2 A. When I was with Sidney Spencer, I don't
3 recall.

4 Q. Did you ever see Mr. Ray stop his sweat
5 lodge ceremony to check on the participants who had
6 come out?

7 A. When the sweat lodge ceremony was
8 finished, he did come out and he did survey the
9 situation.

10 Q. Before the sweat lodge -- before Mr. Ray
11 had finished his ceremony, did he ever come out,
12 for example, between rounds and assess what was
13 going on outside?

14 A. No.

15 Q. Are there other participants, by name,
16 that you're able to recall today that you tended
17 to?

18 A. By name? I mean, almost everybody. It's
19 hard to remember their names. They also didn't
20 look very much the same because most of them had
21 shaved heads. It was really hard to know from one
22 person to the next, besides Kirby, of course, the
23 most impactful people for me.

24 Q. Did you know Stephen Ray?

25 A. Yeah. I remember him coming out.

1 Q. And how did Stephen Ray get out? Do you
2 know?

3 A. I don't know how he got out.

4 Q. When did you first become aware of
5 Stephen?

6 A. He was brought out -- he was right in
7 front of the door, right there. He was laying
8 there. And his back was arched and his eyes were
9 rolling into the back of his head. And it was
10 really scary.

11 Q. How long did you spend with Stephen Ray?

12 A. Not a long time. Because there were many
13 other people around at that time. And by that
14 time, more and more people were coming out faster
15 and faster, and people were everywhere.

16 I was kind of with Stephen Ray for a
17 minute seeing his eyes rolling in the back of his
18 head. And another woman was dragged out, and I was
19 trying to turn her onto her side because she was
20 kind of vomiting. I was trying to turn her onto
21 her side so she could, like, not choke on it. I
22 put her leg down to prop herself up.

23 And I would go to the next person and try
24 to work with them. When the people just started
25 coming out like crazy, I was hands-on minute to

1 second moving.

2 Q. Is what you're describing now after the
3 ceremony ended?

4 A. I think so. You have to remember, it was
5 such pandemonium. It's hard to know when one thing
6 would start and another one started or if it was a
7 round or if it was at the end. It was very
8 confusing.

9 My entire intention was just working on
10 people and saving and helping as much as I could.
11 I can't tell you when, at what point, things were.

12 Q. Were you aware of when Mr. Ray ended his
13 ceremony?

14 A. I was aware of when he ended it, when he
15 came out. Like, timewise, no. But when he came
16 out, yes.

17 Q. What did you observe when he came out?

18 A. He came out --

19 Q. Who came out first?

20 A. James Ray came out first. Megan came out
21 behind him. Megan Fredrickson. And then Taylor,
22 his assistant, came out after that. And I was sort
23 of rounding the corner, and I saw the three of them
24 come out.

25 And I just stopped, and I just saw them

1 come out. Because it was so baffling to me how
2 they looked so great, like they really knew how to
3 do the sweat lodge, I guess.

4 I don't know how they came out looking
5 completely unscathed where every other person that
6 I saw coming out of there, including Josh
7 Fredrickson, everybody was really beaten by this
8 thing. And those three walked out like they just
9 spent the day at the spa. It was incredible to me.

10 Q. Did you say anything at that time to
11 Mr. Ray?

12 A. Yes. I said to the three of them -- I
13 said, oh my gosh. How are you guys coming out
14 looking like that? I mean, how did you do that? I
15 did. I said that to them.

16 Q. Did any of them respond to you?

17 A. I don't recall.

18 Q. What are you aware of next after that?

19 A. Them getting hosed off. Like, some of
20 the Dream Team members would come and just kind of
21 hose them down. They were standing up getting
22 hosed off, where most other people were trying to
23 drag themselves to the beach, so to speak, getting
24 hosed off. These guys walked out. They were just
25 kind of like doing this, getting hosed off. So I

1 saw that.

2 Q. Did you see where Mr. Ray went after he
3 got hosed off?

4 A. He made a right-hand turn and went into
5 the tent.

6 Q. And did you see what he did?

7 A. On the way to the tent is when he had the
8 little conversation with Dennis.

9 Q. Okay. Did you see what Mr. Ray did after
10 stopping to high-five Dennis?

11 A. No. I kind of lost track of him then and
12 went on to do my own thing.

13 Q. And did you see what Megan Fredrickson
14 did after she came out of the tent?

15 A. No.

16 Q. Did you see what Taylor Butler did after
17 she came out of the tent?

18 A. No.

19 Q. Did you ever see Mr. Ray go back into the
20 tent after he came out?

21 A. No.

22 Q. And how about Megan Fredrickson?

23 A. No.

24 Q. And how about Taylor Butler?

25 A. No.

1 Q. Once those three had emerged from the
2 tent, what did you see next coming from the tent?

3 A. I just saw people running in there and
4 looking for more people and searching and dragging
5 people out of there.

6 Q. Who was going into the tent to bring
7 people out?

8 A. I think Lou Caci -- I might have seen him
9 going in. I think Josh was involved with doing
10 that and other people that I don't know. I think
11 Michael Barber was sort of involved in that. We
12 have to remember, those are the people it was
13 easier for me to identify because I knew them
14 better. There were many people trying, at that
15 point, to drag people out.

16 Q. Did you become aware of a person named
17 Christine Bivens at some point?

18 A. Yes.

19 Q. Who was Christine?

20 A. She was one of the participants.

21 Q. What drew your attention to Christine?

22 A. The first thing I noticed about Christine
23 after she was dragged out and put onto a tarp, she
24 was only half onto the tarp. I was concerned for
25 her comfort because if you weren't on the tarp, you

1 were on the dirt. And there were a lot of
2 cactus -- goats heads. And I didn't want her to be
3 uncomfortable.

4 So I grabbed her and kind of pulled
5 her -- tried to pull her onto the tarp more to give
6 her more comfort. And she kicked me like crazy.
7 She was kicking and scratching and punching at me
8 and telling me, I don't want you. I don't want
9 you. I want James. Stay away from me. I just
10 want James. That was the first time I had contact
11 with her when she came out.

12 Q. How did you react to that?

13 A. I continued to move her and comfort her
14 and -- you know -- just realized she wasn't in her
15 right state of mind.

16 Q. At some point, did you become aware of
17 Kirby Brown and James Shore?

18 A. Yes.

19 Q. How was your attention drawn to them?

20 A. Lisa Rondan came and grabbed me and said,
21 I need your help back here.

22 Q. And back here. By "back here" where was
23 that?

24 A. It was on the total opposite side of the
25 sweat lodge where you cannot see from here.

1 Q. Did Lisa tell you why she needed your
2 help?

3 A. I don't recall what she said.

4 Q. Before Lisa came and said I need your
5 help, were you aware of Kirby Brown at all?

6 A. I wasn't.

7 Q. And same question for James Shore?

8 A. No. I knew there was something going on
9 back there. I know that there were people dragged
10 out there. I knew that, but I didn't know who they
11 were at that point.

12 Q. How did you know there were people
13 dragged out back there?

14 A. Just because on the right-hand side of
15 the sweat lodge, there was a lot of activity going
16 on. I knew there was something going on there. I
17 wasn't sure what.

18 Q. When Lisa came and got you, did you go
19 with her?

20 A. Yes.

21 Q. Tell the jury what happened.

22 A. I went to Kirby Brown and she was laying
23 there, and I gave her CPR. I gave her mouth to
24 mouth.

25 Q. What did you -- before you began your

1 intervention, what did you observe about Kirby

2 Brown in particular?

3 A. She was sort of like a grayish-purple
4 color. She was making a really horrible sound.

5 Q. Like what?

6 A. Like this very strange sound. Like a
7 death-rattle type sound. It's very strange. I
8 didn't even recognize her. I didn't even know it
9 was Kirby Brown until a little later.

10 Q. Do you know why you didn't recognize her?

11 A. Yeah. Well, she was in the state she was
12 in, so her neck was kind of flat. Her skin color
13 was off. Her head was shaved. I mean, she just
14 looked like a person, but I didn't know who she was
15 at first.

16 Q. How did you know to start CPR?

17 A. Because they told me, do you know CPR?
18 Get going.

19 Q. Who asked you if you knew CPR?

20 A. Lisa Rondan.

21 Q. Lisa, the person who was a nurse?

22 A. Yes.

23 Q. Did you see anyone doing CPR on Kirby
24 before you began?

25 A. I believe that Jennifer Haley was there.

1 Lisa was there. I was there.

2 Q. Tell the jury what you did.

3 A. I just -- I mean, I gave CPR, mouth to
4 mouth. I turned her on her side, tried to clear
5 out anything. I did everything I could to get her
6 to breathe again. And her chest would come up.
7 And when it would come down, she would just vomit
8 and lay there.

9 I would turn her on her side and try to
10 get her to clear out so she didn't choke on it
11 further, and then turn her back over, give her
12 chest compressions. This went on for a while.

13 Q. For how long would you say?

14 A. Overall she was worked on for, like,
15 almost the afternoon. It just seemed it went on
16 for more than an hour. It went on for a long time.
17 I was there -- I don't know -- 20 minutes with her,
18 maybe less.

19 Q. When you did CPR, what part of the CPR
20 did you do?

21 A. I did mouth to mouth and CPR.

22 Q. You did the --

23 A. I did the chest compressions, listening
24 to see. And she would just -- you know -- you can
25 hear her. She wasn't -- she wasn't responding.

1 Q. How much earlier was it that you had had
2 first aid and CPR training?
3 A. **Two months, three months, something like**
4 **that.**
5 Q. Had you had the opportunity to do CPR on
6 anybody else before you were asked to do it on
7 Kirby Brown?
8 A. **No.**
9 Q. That was your first time?
10 A. **Yes.**
11 Q. Did Jennifer Haley participate in doing
12 CPR on Kirby?
13 A. **Yes.**
14 Q. At what part?
15 A. **I think when I arrived there, she was**
16 **working on Kirby. And I noticed that -- you**
17 **know -- she wasn't really quite doing it correctly.**
18 **And she knew that too. She was, like, I don't know**
19 **what I'm doing. Oh, my God. She kind of threw up**
20 **her hands. So I kind of dove in there and helped**
21 **out.**
22 Q. At some point did a doctor come over to
23 where Kirby was to help?
24 A. **Yes.**
25 Q. At what point?

1 A. **At what point? I know this doctor was --**
2 **she was a participant. Again, she had no hair, so**
3 **I don't know who she was. But she was over there**
4 **working on Stephen Ray. And then she came over by**
5 **Kirby. And then I was -- you know -- told, okay.**
6 **We're taking over from here.**
7 Q. Who told you that?
8 A. **I think she's the one who said that.**
9 Q. Did she announce to you that she was a
10 doctor?
11 A. **I heard her say it out loud. I don't**
12 **think she told me specifically. There was just a**
13 **lot of things happening all at once. I heard her**
14 **say she was a doctor.**
15 Q. And you testified it was about 20 minutes
16 that you worked on Kirby before the doctor came
17 over?
18 A. **Possibly. It's hard to know.**
19 Q. During the time that you were attempting
20 to resuscitate Kirby, you talked about vomit. Did
21 you ever see any blood on Kirby?
22 A. **No.**
23 Q. Did you ever see any blood coming out of
24 her mouth?
25 A. **No.**

1 Q. Were you aware of Mr. Ray at all when you
2 were attempting to resuscitate Kirby?
3 A. **Yes.**
4 Q. How was it that were you aware of him?
5 A. **He came over. I was working on Kirby. I**
6 **was focusing on her. And then all of a sudden I**
7 **see feet standing above where I was and where**
8 **Kirby's head was. And I looked up, and it was**
9 **James. He was watching.**
10 Q. Did Mr. Ray say anything?
11 A. **No.**
12 Q. Did anybody -- before the doctor arrived,
13 did anybody else other than Jennifer attempt to
14 assist with the CPR?
15 A. **I think Lisa did. Yeah. Lisa Rondon.**
16 Q. How about Mr. Ray?
17 A. **No.**
18 Q. Were you aware of James Shore at that
19 time?
20 A. **I was aware that he was laying over**
21 **there.**
22 Q. How far away from where Kirby Brown was
23 James Shore?
24 A. **He was not far. He was about as far as**
25 **that metal piece of furniture there.**

1 Q. Were you aware of who was around James
2 Shore?
3 A. **I believe that doctor woman was there. I**
4 **believe that Marta Reis was there. And I know Lisa**
5 **Rondon was kind of going back and forth between the**
6 **two.**
7 Q. Were you ever aware of any attempt to
8 cool down either Kirby Brown or James Shore?
9 A. **Not aware. No.**
10 Q. And are you able to recall today, when
11 you were working on Kirby Brown whether or not she
12 had been wetted down?
13 A. **No. I don't know.**
14 Q. You don't know?
15 A. **No.**
16 Q. Did you ever become aware of Liz Neuman
17 when the sweat lodge ceremony was over?
18 A. **Yes.**
19 Q. What brought your attention to Liz?
20 A. **Liz was -- I know everybody was very**
21 **concerned about her. She was moved a couple of**
22 **times. They couldn't get her to respond sort of a**
23 **similar way as Sidney Spencer. Nobody can get a**
24 **response out of her, and her breaths were very**
25 **shallow.**

1 **I didn't directly work on Liz at that**
 2 **time. She had a lot of people on her at that**
 3 **moment, and they couldn't get her to respond.**
 4 Q. Where was Liz? Can you show us on this
 5 exhibit.
 6 A. **I know where she was when the ambulance**
 7 **came, but I think she wasn't there before. I**
 8 **wouldn't be able to tell you exactly where Liz was.**
 9 Q. And during the time that you were working
 10 on Kirby Brown, were you aware of the structure
 11 itself, the sweat lodge structure?
 12 A. **In what way? What do you mean?**
 13 Q. Did you ever notice whether or not there
 14 was a part of it that had been opened up?
 15 A. **No.**
 16 Q. Do you know how Kirby Brown got out of
 17 the sweat lodge?
 18 A. **No.**
 19 Q. Do you know how James Shore got out?
 20 A. **No.**
 21 Q. Were you aware at some point that
 22 emergency medical attention had been called?
 23 A. **Yes.**
 24 Q. How did you become aware of that?
 25 A. **They all started to arrive. I actually**

1 **ran over to the ambulances when they came.**
 2 MR. KELLY: Judge, I would stipulate to 230,
 3 557, 553, 554, and 555.
 4 THE COURT: Okay. 230, 553, 554, 555, and 557
 5 are admitted.
 6 (Exhibits 230, 553, 554, 555 and 557
 7 admitted.)
 8 Q. BY MS. POLK: Ms. Martin, I'm going to
 9 put on the overhead 555 and ask you -- first of
 10 all, you testified earlier when I asked you why you
 11 didn't go call 9-1-1 at some point, you testified
 12 you would have had to run to your room, get your
 13 keys. Were you aware of cell phone service at
 14 Angel Valley?
 15 A. **No.**
 16 Q. Why is it that you would have had to go
 17 to your room?
 18 A. **Because all of my personal effects were**
 19 **in my room.**
 20 Q. And do you know who called 9-1-1?
 21 A. **At that point I did not know.**
 22 Q. We had a map of Angel Valley itself up
 23 earlier. Do you recognize what this is a
 24 photograph of?
 25 A. **Yes.**

1 Q. What is it?
 2 A. **That's the road that comes into Angel**
 3 **Valley.**
 4 Q. Can you draw for the jury where the road
 5 is in that photograph.
 6 A. **There.**
 7 Q. And where, if you know, would the sweat
 8 lodge structure itself be, if you know?
 9 A. **Well, it would be way down this area.**
 10 **But you can't see it from this picture.**
 11 Q. Do you know how long that road is?
 12 A. **Yeah. It's a couple miles at least.**
 13 Q. Did you drive yourself to Angel Valley?
 14 A. **I did.**
 15 Q. Do you recall how long it took you --
 16 first of all, is that a dirt road or paved road?
 17 A. **Dirt road.**
 18 Q. Do you recall how long it took you from
 19 the highway to drive down that road to the Angel
 20 Valley Retreat Center?
 21 A. **15, 20 minutes, perhaps.**
 22 Q. I'm going to put up on the overhead,
 23 Exhibit 554 and just ask if you recognize what's in
 24 that exhibit.
 25 A. **Obviously there's a fire truck there.**

1 **And it looks like the same road, just another part**
 2 **of it.**
 3 Q. When was it that you became aware that
 4 emergency response had arrived?
 5 A. **When I heard the ambulances.**
 6 Q. And do you have any concept today, as you
 7 sit here testifying, how long between the end of
 8 Mr. Ray's sweat lodge ceremony and the arrival of
 9 emergency responders -- how much time had passed?
 10 A. **I can't testify to time so well. It**
 11 **seems pretty quickly, I guess.**
 12 Q. You testified that you ran to the
 13 ambulance?
 14 A. **Yes.**
 15 Q. How come?
 16 A. **Because they were coming and I wanted to**
 17 **facilitate the saving of people as quickly as**
 18 **possible.**
 19 Q. What did you do when you -- was this the
 20 first ambulance to arrive that you ran to?
 21 A. **Yes.**
 22 Q. And what did you do?
 23 A. **Well, they were coming out of the**
 24 **ambulance, and I was running toward them. And they**
 25 **said, what happened here? What is all this?**

1 And I said, it's a sweat lodge that's
2 gone wrong.

3 And they said. Okay where are your most
4 critical or where are the people that need the most
5 attention? And then they ran with me.

6 We went back in there, and I said, okay.
7 On the back over here there is two people, over
8 here there is people. And I just kind of went
9 through and just sort of finger pointed.

10 And as I said it, they'd have people go
11 that way. I said this way and they had people
12 going that way.

13 Q. Do you recall today how many participants
14 you sent emergency responders to?

15 A. No. I mean, it was just everybody that I
16 knew that I couldn't get a response out of.
17 Because I had been kind of checking back with
18 everybody. I just kind of tried to remember more
19 or less where they were and try to send them this
20 way and that way.

21 And then once the paramedics were with me
22 and were kind of in the middle of it, then other
23 people were volunteering and going, Tess Wong is
24 here. Liz Neuman is here. And everybody got into
25 the mix. But at first I ran out to get them, and

1 we all ran back in together.

2 Q. You just mentioned Tess Wong. Were you
3 aware of Tess Wong at some point when the -- at
4 some point -- at any point during the sweat lodge
5 ceremony?

6 A. I remember Tess Wong sitting on one of
7 the tarps. And Michael Barber in particular was
8 working with her trying to get her to come out of
9 it.

10 Q. Once you had identified for the first
11 responders who you believed needed attention, what
12 did you do?

13 A. I was there. I was just cooperating with
14 the police and the ambulance crew in any way I
15 could, answering any questions for them, trying to
16 identify people. That was a pretty big thing.
17 They were asking who this person was or that
18 person's name.

19 Q. Were you aware that helicopters arrived
20 at some point?

21 A. Yes.

22 Q. What made you aware of that?

23 A. Their arrival.

24 Q. I'm going to put on the overhead,
25 Exhibit 553. Do you see what that is?

1 A. Yes.

2 Q. What is that?

3 A. It's one of the helicopters that arrived.

4 Q. Do you know how many helicopters arrived?

5 A. No.

6 Q. I'm going to put on the overhead,
7 Exhibit 557, another helicopter.

8 Do you believe that more than one
9 helicopter came to the scene?

10 A. I thought there might have been four.

11 Q. And when the helicopters arrived, what
12 were you doing?

13 A. Just continuing to assist in any way that
14 I could. But by then, of course -- they're the
15 experts. I just kind of was there if they had
16 questions. I was running with the ambulance, the
17 paramedics, just trying to answer who these people
18 were they were putting in helicopters.

19 Q. What were you able to tell the paramedics
20 about who was being put into helicopters, if you
21 recall?

22 A. To my -- to the best of my ability at
23 that moment, I would say, well, this is Sidney
24 Spencer. And they're putting her onto a
25 helicopter. This is -- you know -- whoever -- Tess

1 Wong. And as they were putting on that -- I mean,
2 I was just doing my best to identify these people
3 for the paramedics.

4 Q. Did you identify Kirby Brown as a person
5 being put on a helicopter?

6 A. No.

7 Q. And how about Liz Neuman?

8 A. Yes. Liz Neuman -- they kind of already
9 knew who she was. But they were putting her on.
10 Kirby Brown did not go on a helicopter. She went
11 in an ambulance.

12 Q. How about James Shore?

13 A. James Shore also went into an ambulance.

14 Q. Do you have a recollection today as to
15 the timing of when Kirby Brown was put into an
16 ambulance and taken away? In other words, was it
17 right away after emergency responders arrived, or
18 did some time go by before she was transported?

19 A. I don't recall.

20 Q. I'm going to put on the overhead,
21 Exhibit 230.

22 Does that scene look familiar to you?

23 A. Yes.

24 Q. Do you know if you are in this
25 photograph? Do you want me to bring you the actual

1 photograph?
 2 **A. That would be great.**
 3 **Q.** I'm going to hand the witness
 4 Exhibit 230.
 5 **A. I don't see myself.**
 6 **Q.** Does this scene look familiar?
 7 **A. This was the day.**
 8 **Q.** Do you recognize people in that
 9 photograph?
 10 **A. I do.**
 11 **Q.** Let me put it up on the overhead. And
 12 I'll have you look at the monitor and you can tell
 13 us who you recognize. You can just use --
 14 **A. Okay. That looks like Megan.**
 15 **Q.** The person with the sweat shirt?
 16 **A. Uh-huh. That looks like Megan, of**
 17 **course, only from her back. That looks like Josh**
 18 **next to her. That looks like -- I could be**
 19 **mistaken, but that looks like James.**
 20 **Q.** James Ray?
 21 **A. Yes.**
 22 **Q.** Okay.
 23 **A. This guy here, that looks like Michael**
 24 **Barber.**
 25 **Q.** Without the shirt?

1 **A. It looks like him.**
 2 **That looks like Michael Hamilton.**
 3 **Q.** Okay.
 4 **A. This lady here, that's Fawn. She worked**
 5 **at Angel Valley.**
 6 **Q.** Do you know who the paramedics are
 7 working on right here?
 8 **A. That looks like the location where Liz**
 9 **was.**
 10 **Q.** And how about over here? Do you
 11 recognize anybody?
 12 **A. I'd like to look at the regular picture**
 13 **again. That's Sidney Spencer. That looks like**
 14 **Sidney Spencer right here laying down.**
 15 **Q.** Okay. And then the one originally you
 16 thought it was Sidney Spencer, do you know who that
 17 is?
 18 **A. No. I didn't think anybody was -- I**
 19 **thought that was Liz Neuman. I think that looks**
 20 **like Sidney Spencer to me. Of course, I'm looking**
 21 **at the back of people's heads.**
 22 **Q.** Point to who you recognize and tell us
 23 who you think it is.
 24 **A. I think that's Sidney Spencer on the**
 25 **ground right there. You want me to go through**

1 **everybody again?**
 2 **Q.** Just the ones that you were able to
 3 recognize when I brought it to you.
 4 **A.** At some point did you leave this scene?
 5 **Yes.**
 6 **Q.** At some point were you asked to leave the
 7 scene?
 8 **A. Yes.**
 9 **Q.** Who asked you to leave the scene?
 10 **A. The paramedics.**
 11 **Q.** Did you ever have a conversation with
 12 anybody from James Ray International about what you
 13 should be doing at the scene?
 14 **A. Yes.**
 15 **Q.** Who was that with?
 16 **A. Megan.**
 17 **Q.** And what were you asked to do?
 18 **A. Megan said that dinner would be served at**
 19 **6:30, and I needed to rally everybody up and get**
 20 **them up there to the dining hall right away.**
 21 **Q.** Do you recall when that was that Megan
 22 told you that?
 23 **A. Yeah. During the complete pandemonium of**
 24 **the moment.**
 25 **Q.** Before paramedics arrived or after?

1 **A. I think it was just before.**
 2 **Q.** How did you respond to that?
 3 **A. I told her, I'm sorry. I cannot do that**
 4 **right now. There was -- it was like an**
 5 **unreasonable request of me considering everything**
 6 **I'd been doing that whole day just saving lives and**
 7 **working with people. I just thought there is no**
 8 **way I'm going to be camp counselor at this point**
 9 **and try to get them to the dining hall. It's just**
 10 **not a reasonable request.**
 11 **Q.** You said the paramedics at some point
 12 asked you to leave the scene?
 13 **A. They asked me -- one of the paramedics**
 14 **that I had sort of been talking to quite a bit**
 15 **about identifying people -- he was telling one of**
 16 **his colleagues that she seems to know the people.**
 17 **Let's have her come. You follow behind us. You**
 18 **get in your car. You follow behind. Do you have a**
 19 **car?**
 20 **Yes.**
 21 **Okay. You follow behind us. You can**
 22 **help identify people when we get to the hospital.**
 23 **Q.** And, Ms. Martin, do you have a sense of
 24 what time that was?
 25 **A. No.**

1 Q. Do you have a sense of how much light in
2 terms of daylight there was when this happened?
3 A. **It was dusk, I would say, by then.**
4 Q. And how about air temperature at that
5 time?
6 A. **It was cooling down for sure.**
7 Q. Were you getting cool?
8 A. **Yes.**
9 Q. What did you do, then, when the paramedic
10 directed you to get your car and follow?
11 A. **I ran to my room as fast as I can humanly**
12 **run. I grabbed my keys and my purse and didn't**
13 **even remember a jacket, ran back, jump in the car**
14 **and got down there.**
15 Q. Did you encounter Lou Caci at some point?
16 A. **Uh-huh. I don't know -- that was wild.**
17 **When I was talking with the paramedics, that was**
18 **one of the people that I had in my mind that really**
19 **needed help.**
20 **And I was looking everywhere for Lou Caci**
21 **so I can tell the paramedics that he needed**
22 **assistance. We couldn't find him anywhere. So I**
23 **was told, oh. He went back to his room.**
24 **And I said, that's not right. He should**
25 **not be back in his room. He needs attention.**

1 **And so before that happened where I left,**
2 **we had actually gone looking for him. So we jumped**
3 **in the golf cart. I think it was Amayra's son. We**
4 **jumped in the golf cart and we went up to where his**
5 **room was, and he wasn't in there.**
6 **We went to the showers. Like, they had**
7 **some basic showers. And we found him in the**
8 **shower. And we coaxed him to come out so he can go**
9 **with the ambulance.**
10 Q. Why did you believe that Lou Caci needed
11 to go to the hospital?
12 A. **Because his arm, all his skin was burned**
13 **off and his leg, and he was not in the right state**
14 **of mind.**
15 Q. What did it take to get Lou to go to the
16 hospital?
17 A. **Actually, I know it took a lot of coaxing**
18 **just to get him to the point where he was near the**
19 **ambulances. And whether or not he actually went**
20 **after I left, I don't know.**
21 Q. What did you do to get Lou to come back
22 down to the scene where the ambulances were?
23 A. **Well, my main effort was to let them know**
24 **of his existence and that he needed help. I kind**
25 **of let them do their thing at that point.**

1 Q. And you just testified it took a lot of
2 coaxing to get him near the ambulances. What are
3 you talking about?
4 A. **Well, I was just kind of there going,**
5 **come on, Lou. And I know he was kind of fighting**
6 **it going, I'm fine. Whatever he was saying, it**
7 **wasn't easy. He didn't just say, okay. I'll go**
8 **with you. I know he was putting up kind of an**
9 **argument with them.**
10 Q. What did you observe about Lou's mental
11 state at that time?
12 A. **He was asking questions like, where is**
13 **Liz? How's Liz doing? Where's Liz? I'm, like,**
14 **Lou. We're talking about you right now. Of**
15 **course, I didn't want to talk to him about Liz, who**
16 **wasn't doing well. And it was nice he was**
17 **concerned about her.**
18 **But I was concerned about him because I**
19 **know he was one of the main people that was badly**
20 **injured. So that was his state of mind. Complete**
21 **confusion.**
22 Q. Did you get your car and go back down to
23 the scene?
24 A. **I went to where the ambulances were. And**
25 **I lined myself up behind the ambulance and just**

1 **went with them to Cottonwood.**
2 Q. How many ambulances did you follow to
3 Cottonwood?
4 A. **I followed one to Cottonwood.**
5 Q. Did you have anybody with you in your
6 car?
7 A. **Yes. Lisa Rondan and Marta Reis.**
8 Q. Do you know who was in the ambulance you
9 were following?
10 A. **I think it was Sean Ronan who was in the**
11 **ambulance in front of us.**
12 Q. And let's just back up a moment. Do you
13 have any specific recall of Sean Ronan at any time
14 during the sweat lodge ceremony or after?
15 A. **Yeah. He was -- somehow or another he**
16 **was on the outside of the sweat lodge. If there**
17 **was James Shore and Kirby Brown, he would have been**
18 **another participant over, basically. But later on**
19 **in the afternoon he was there.**
20 **He was kind of half in and half out of**
21 **the sweat lodge at that location. And he was sort**
22 **of out of it. And I was talking to him. I said,**
23 **Sean. Hey. Do you know who I am?**
24 **And he was just like, um. And I said,**
25 **I'm Melinda. Do you remember Melinda? And he was,**

1 like, out of it. He was completely out of it.

2 Q. You just said that Sean was over in the
3 area of Kirby. I'm going to put up on the overhead
4 Exhibit 316.

5 Are you talking about after the ceremony
6 was over and you were tending to Kirby on the side?

7 A. Yes.

8 Q. What did you mean that Sean was half in
9 and half out of the structure?

10 A. You know -- when this happened, I think I
11 noticed him after the ambulances arrived because I
12 was sort of back that way. And it was when I was
13 coming back I noticed him out there. Just so many
14 things were happening at once.

15 But you can't see where he was because it
16 was on the other side of the sweat lodge. But I
17 know that he was out there. And I kind of went up
18 to him and just kind of interfaced with him for a
19 minute.

20 Q. Did you then follow the ambulance to the
21 hospital?

22 A. Yes.

23 Q. Do you know what hospital?

24 A. Cottonwood.

25 Q. A hospital in Cottonwood?

1 A. Yes.

2 Q. Tell the jury what happened when you got
3 to the hospital.

4 A. The ambulance had gone in one way, and I
5 went to the main -- I parked the car and then the
6 three of us ran in. And then the hospital -- I
7 couldn't find the paramedics that originally asked
8 me to go. And the hospital didn't know who I was.
9 And I couldn't exactly say I was -- you know -- a
10 family member of any of the people that came in.

11 And so they, basically, told me, sorry.
12 But you can't be here. You're not family, and so
13 you might as well just leave. And they didn't --
14 you know -- they didn't know the news yet that what
15 had gone --

16 MR. KELLY: Your Honor, objection. Relevance,
17 hearsay.

18 THE COURT: Sustained. Just to that last
19 phrase.

20 Q. BY MS. POLK: Were you able to provide
21 any information to anybody at that hospital in
22 Cottonwood about who the patients were that were
23 coming in?

24 A. No.

25 Q. How long did you try?

1 A. I was there for about half an hour, and
2 they wouldn't let me come in.

3 Q. Did anybody else from James Ray
4 International come to the hospital to give
5 information?

6 A. I don't know.

7 Q. Did you see anybody?

8 A. No.

9 Q. What did you do then?

10 A. Then we -- we were trying to find out
11 where the helicopters went. And we found out that
12 the helicopters went to Flagstaff and that the
13 Flagstaff was about an hour-and-a-half drive away.
14 So we jumped back in the car, the three of us, and
15 we drove to Flagstaff.

16 Q. Did you know where Flagstaff was before
17 you went up there?

18 A. No. I was trying to -- you know --
19 MapQuest it, trying to find our way. We had no
20 idea.

21 Q. Who all went to Flagstaff?

22 MR. KELLY: Objection. Relevance as to this
23 line of questioning.

24 THE COURT: Overruled.

25 You may answer that.

1 THE WITNESS: Lisa Rondan, Marta Reis, and
2 myself.

3 Q. BY MS. POLK: Did you then find a
4 hospital in Flagstaff?

5 A. Yes.

6 Q. Were you able to locate participants who
7 had been in Mr. Ray's sweat lodge ceremony?

8 A. Yes.

9 Q. How were you able to find the patients
10 who had been taken to Flagstaff hospital?

11 A. We had kind of devised a plan on the
12 drive up there that I was going to say that Liz
13 Neuman was my sister, and Lisa Rondan had been
14 dating Stephen Ray for some time so that was her
15 fiancé.

16 We kind of hatched a plan on the way up
17 so we can get in. But -- it almost worked when the
18 main nurse came down and heard what had been going
19 on and then just openly just said, come on back.
20 Because there're four people here and we'd like you
21 to help identify them.

22 Q. Who were the four people?

23 A. Liz Neuman, Tess Wong, Stephen Ray, and
24 Sidney Spencer.

25 Q. Did you see each one of those four

1 participants at the hospital?

2 **A. I did.**

3 **Q.** Did you identify them for the hospital?

4 **A. Yes.**

5 **Q.** Did you see the condition of each one of

6 them in that process?

7 **A. I did.**

8 **Q.** And tell the jury --

9 MR. KELLY: Your Honor, object.

10 THE COURT: Grounds, Mr. Kelly?

11 MR. KELLY: Going to provide medical opinion

12 of the conditions of patients in the hospital.

13 THE COURT: There really wasn't a full

14 question.

15 Ms. Polk, you talked about observations.

16 Go ahead and ask a question.

17 **Q.** BY MS. POLK: Did you actually see Tess

18 Wong at the Flagstaff hospital?

19 **A. Yes.**

20 **Q.** What did you observe about Tess when you

21 saw her?

22 **A. She was -- actually, the first night she**

23 **was incubated, meaning the tubes were down her**

24 **throat, through her nose, and she was out. That**

25 **was that night.**

1 MR. KELLY: Your Honor, same objection.

2 THE COURT: As far as the observations,

3 overruled as to that. Sustained as to any kind of

4 opinion as to consciousness, that type of thing.

5 Overruled at this point.

6 Go ahead, Ms. Polk.

7 **Q.** BY MS. POLK: How much time did you spend

8 at the Flagstaff hospital?

9 **A. I was there all night. I don't know. We**

10 **might have left around 3:00 or so in the morning to**

11 **get a couple hours sleep.**

12 **Q.** Where did you go to get sleep?

13 **A. Just a little hotel around the corner.**

14 **Q.** That's you and Marta and Lisa?

15 **A. Yes.**

16 **Q.** Did you see Stephen Ray that night?

17 **A. Yes.**

18 **Q.** What did you observe about Stephen?

19 **A. I think he wasn't -- he didn't appear to**

20 **be coherent at that moment, that night.**

21 **Q.** Did you see Stephen again before you

22 left?

23 **A. Yes. We were there the next morning**

24 **before the sun came up.**

25 **Q.** And what did you observe about Stephen

1 the last time you saw him?

2 **A. He woke up and he spoke to us a little**

3 **bit.**

4 **Q.** Did you see Sidney Spencer that night?

5 **A. Yes.**

6 **Q.** What did you observe about Sidney?

7 **A. Sidney was awake. Yeah. She was awake,**

8 **and she was vomiting blood.**

9 **Q.** And did you see Liz Neuman?

10 **A. Yes.**

11 **Q.** And what did you observe about Liz?

12 **A. Liz was on a different floor. She wasn't**

13 **on the same floor with the other three. And she**

14 **appeared to be incoherent.**

15 **Q.** Did you spend more time with Liz Neuman?

16 **A. Yes.**

17 **Q.** How much time did you spend with Liz?

18 **A. I spent a good amount of the time with**

19 **her in her room.**

20 **Q.** And how come?

21 **A. Because I felt close to her after we had**

22 **such a nice bonding experience, spending the whole**

23 **week together. You know -- I felt so bad for her**

24 **because I knew that her family didn't know she was**

25 **there, and she was all alone.**

1 THE COURT: Excuse me, Ms. Polk. We do need

2 to take a recess. I have a note here. Take a

3 brief recess. Probably take another shorter recess

4 later.

5 Let's break for about 10 minutes.

6 Remember the admonition. We'll resume in 10

7 minutes. Thank you.

8 (Recess.)

9 THE COURT: The record will show the presence

10 of the defendant, Mr. Ray, the attorneys, and the

11 jury.

12 And, ladies and gentlemen, before I have

13 the witness come back in, I want to address you

14 about some potentially very serious matters. It

15 was reported to me that a juror on another panel

16 was approached by a reporter. And this is what's

17 coming to me through my judicial assistant and

18 through the bailiff for the other jury panel.

19 And the reporter was attempting to ask

20 this person about this case. Well, that juror is

21 on a different case. But the fact that something

22 like that could happen is very, very disturbing to

23 this Court.

24 I also noticed when I went down to check

25 with security, that you were on a break and there

1 was somebody else kind of amongst you. And the
2 security person informed me that that person
3 apparently is with media.

4 And I know that my bailiff has instructed
5 you now that you have to -- as I have. You have to
6 avoid even the appearance of any kind of
7 impropriety or improper going on.

8 And you know about how you can't discuss
9 the case with anyone, even among yourselves. You
10 certainly cannot be around media in any way. And
11 I'm going to say if the person was, in fact, from
12 media and is at all associated with anybody who is
13 here in this courtroom, we're going to deal with
14 that.

15 But I just want to make sure you
16 understand that you just have to avoid those kinds
17 of situations. I have been very appreciative with
18 the notes you've brought to me whenever there has
19 been any kind of incident. I trust you'll do that.

20 It's just very important that you follow
21 the admonition. I know you'll do that. I'll just
22 keep giving you these reminders. I want people to
23 be aware of that.

24 I'm going to ask the witness please be
25 brought in at this time.

1 Ms. Martin, please come forward again and
2 take a seat at the witness stand.

3 Ms. Polk, I'll want to recess again at
4 4:00 o'clock. You can continue when you're ready.

5 MS. POLK: Thank you, Your Honor.

6 Q. Ms. Martin, you had testified that at the
7 hospital in Flagstaff, you spent some time with Liz
8 Neuman. Did you notice anything about her hair?

9 A. **Yes. She had the same sparkles in her**
10 **hair that I did. We had had this tinsel attached**
11 **to our hair while we were in Sedona together. She**
12 **had them. So did I.**

13 Q. You testified, earlier, much earlier,
14 about the head shaving event that occurred at the
15 beginning. Had Liz had her hair shaved?

16 A. **No.**

17 Q. Had she had her hair cut?

18 A. **At the event?**

19 Q. Yes.

20 A. **I don't know.**

21 Q. I want to put up on the overhead from
22 Exhibit 736, which is the Spiritual Warrior
23 participant guide, the Spiritual Warrior release
24 waiver of liability, et cetera.

25 Have you seen this document before?

1 A. **Yes.**

2 Q. Were you asked to sign this document
3 before Spiritual Warrior --

4 A. **Me, myself, no.**

5 Q. Do you know if the Dream Team members
6 were asked to sign this waiver?

7 A. **Yes.**

8 Q. You believe that they were?

9 A. **Yes. We usually did the Dream Team**
10 **members as well.**

11 Q. Do you specifically recall -- did you
12 gather this information, this sheet, from
13 participants at Spiritual Warrior 2009?

14 A. **I don't recall.**

15 Q. Were you at the tent when participants
16 arrived and were doing the registration process?

17 A. **Yes.**

18 Q. Were you or other members from James Ray
19 International gathering information from
20 participants at that time?

21 A. **The staff members --**

22 MR. KELLY: Your Honor, object. Calls for a
23 yes or no response.

24 THE COURT: Sustained.

25 Q. BY MS. POLK: Were you gathering

1 information from participants?

2 A. **No.**

3 Q. Did you ever gather emergency contact
4 information from participants?

5 A. **No.**

6 Q. Do you know whether or not there was a
7 plan by Mr. Ray to contact relatives of
8 participants in case of an emergency?

9 A. **No.**

10 Q. You don't know or there was not a plan?

11 A. **Both. I mean, there wasn't a plan.**

12 Q. When you were at the hospital, did you
13 provide information concerning the identity of the
14 four patients that were there?

15 A. **Yes.**

16 Q. And without telling me what anybody else
17 said, what information were you able to provide?

18 A. **The names.**

19 Q. Were you able to provide anything more
20 than the names?

21 A. **No.**

22 Q. And do you know if anything, any
23 additional identifying information had ever been
24 gathered from participants from Mr. Ray in order to
25 participate in Spiritual Warrior 2009?

1 MR. KELLY: Objection to the form of the
2 question.
3 THE COURT: Overruled.
4 Again, that calls for just a yes or no.
5 THE WITNESS: Can you ask the question again,
6 please.
7 Q. BY MS. POLK: Do you know if identifying
8 information beyond a name had been gathered by
9 Mr. Ray or James Ray International from
10 participants at Spiritual Warrior 2009?
11 A. Yes.
12 MR. KELLY: Objection. Relevance, Judge.
13 THE COURT: Overruled.
14 Q. BY MS. POLK: Your answer was yes?
15 A. Yes.
16 Q. Did you have that information when you
17 were at the hospital?
18 A. No.
19 Q. You testified earlier that you were
20 specifically sent for training in first aid and
21 CPR; correct?
22 A. Yes.
23 Q. What was the first-aid training? What
24 did it entail?
25 A. It entailed how to treat a burn, how to

1 help somebody if they break their arm, how to
2 create a sling, how to move somebody who has been
3 injured out of the way of harm, and then CPR basic
4 training as well.
5 Q. Did it involve training on how to treat
6 somebody who had been exposed to heat?
7 A. No.
8 Q. Were you responsible for putting together
9 that first-aid kit?
10 A. Yes.
11 Q. And who put you in charge of that?
12 A. Megan.
13 Q. Was first aid part of your duties at
14 Spiritual Warrior 2009?
15 A. I mean, just overall carrying the
16 first-aid kit like I did for every event.
17 Q. Plus you were the person who was
18 trained --
19 A. Yes.
20 Q. -- in CPR and first aid?
21 A. Correct.
22 Q. Did Mr. Ray or anyone from James Ray
23 International ever brief you on what happens to a
24 person who is exposed to extreme heat?
25 A. No.

1 Q. Did Mr. Ray ever brief you on his prior
2 sweat lodge events --
3 MR. KELLY: Your Honor, objection.
4 THE COURT: Complete your question.
5 Q. BY MS. POLK: Did Mr. Ray ever brief you
6 on his prior sweat lodge events and incidents
7 related to the heat?
8 A. No.
9 MR. KELLY: Your Honor, objection.
10 THE COURT: Overruled.
11 THE WITNESS: No.
12 Q. BY MS. POLK: Did you ever receive any
13 training from Mr. Ray about what to do specifically
14 with participants who were reacting to extreme
15 heat?
16 A. No.
17 MR. KELLY: Your Honor, objection to the form
18 of the question. This witness doesn't work for
19 Mr. Ray. She works for James Ray International.
20 THE COURT: The question was asked
21 specifically about Mr. Ray, correct, Ms. Polk?
22 MS. POLK: Yes.
23 THE COURT: You may answer that with regard to
24 Mr. Ray.
25 Q. BY MS. POLK: Do you recall the question?

1 A. Can you repeat that.
2 THE COURT: The reporter probably can.
3 MS. POLK: Can I ask the court reporter to
4 read it back, please.
5 (Record read.)
6 THE WITNESS: The answer is no.
7 Q. BY MS. POLK: During the time that you
8 were outside Mr. Ray's ceremony on October 8th,
9 2009, did you ever hear anything being said inside?
10 A. At the beginning, yes.
11 Q. And what did you hear at the beginning?
12 MR. KELLY: Your Honor, objection. Asked and
13 answered.
14 THE COURT: Overruled.
15 THE WITNESS: I heard the basic chanting. I
16 heard some things throughout the day. Very little.
17 It was the chanting mostly.
18 Q. BY MS. POLK: Did you ever hear any
19 specific comments from Mr. Ray while he was inside
20 the sweat lodge beyond the chanting that you've
21 testified about?
22 A. Just, like, you can do it. You're
23 stronger than this.
24 Q. When was it that you heard those
25 comments -- for example? Did you ever hear

1 comments by Mr. --
 2 MR. KELLY: Your Honor, objection. Two
 3 questions.
 4 THE COURT: It was heading towards a leading
 5 question. So it was sustained.
 6 MS. POLK: I was trying to give the witness a
 7 time frame.
 8 Q. When the door was open to the sweat lodge
 9 itself, did you ever hear Mr. Ray make any
 10 statements?
 11 A. Yes.
 12 Q. And what did you hear him say?
 13 A. I heard him make a comment to Greg Hartle
 14 about get out there and get a breath, buddy, and
 15 come back in as soon as you can.
 16 Q. Do you know when that was?
 17 A. No.
 18 Q. Did you ever hear Mr. Ray say anything
 19 beyond that when the door was open?
 20 A. I can't recall.
 21 Q. When the door was closed, were you able
 22 to hear comments from within -- inside the sweat
 23 lodge?
 24 A. Not too much. No.
 25 Q. Did you know a person named Sheryl Stern?

1 A. Yes.
 2 Q. How did you know Sheryl Stern?
 3 A. She worked at the JRI office.
 4 MR. KELLY: Your Honor, objection. Relevance,
 5 prior orders of the Court.
 6 THE COURT: Ms. Polk?
 7 MS. POLK: I don't understand the objection.
 8 I'm just going to ask if she was present at
 9 Spiritual Warrior 2009.
 10 THE COURT: Overruled.
 11 MR. KELLY: I'll stipulate she's not present
 12 in 2009.
 13 THE COURT: Do you accept the stipulation,
 14 Ms. Polk?
 15 MS. POLK: I was just going to ask the witness
 16 if she knew whether or not Ms. Stern was present in
 17 October of 2009 at Spiritual Warrior.
 18 THE COURT: Mr. Kelly, you're stipulating she
 19 was not?
 20 MR. KELLY: Yes, Judge.
 21 THE COURT: I'll accept that stipulation.
 22 Q. BY MS. POLK: You testified earlier that
 23 with regard to all of the incidents, the events
 24 transpiring during Mr. Ray's sweat lodge ceremony,
 25 you were told that this was normal. Do you recall

1 that testimony.
 2 A. Yes.
 3 Q. Are you aware whether Mr. Ray ever
 4 conducted any safety reviews concerning his past
 5 sweat lodge ceremony?
 6 MR. KELLY: Your Honor, objection.
 7 THE COURT: Sustained.
 8 Q. BY MS. POLK: Did you ever see any
 9 manuals, any policy manuals, pertaining to
 10 Spiritual Warrior 2009?
 11 A. No.
 12 Q. I want to put back up on the overhead,
 13 Exhibit 230. You've already testified about this
 14 exhibit. Did you ever see Mr. Ray providing
 15 assistance to any of the participants after the
 16 sweat lodge ceremony was over?
 17 A. No.
 18 Q. Thank you, Ms. Martin.
 19 Thank you, Your Honor.
 20 THE COURT: Thank you, Ms. Polk.
 21 Mr. Kelly?
 22 MR. KELLY: Thank you, Judge.
 23 CROSS-EXAMINATION
 24 BY MR. KELLY:
 25 Q. Ms. Martin, would you agree with me that

1 this jury is entitled to the truth?
 2 A. Yes.
 3 Q. Without exaggeration?
 4 A. Yes.
 5 Q. I've put up on the overhead Exhibit 147.
 6 Do you recognize the sweat lodge depicted in 147?
 7 A. I can't tell if this is from '09 or a
 8 different, previous event.
 9 Q. So you don't know?
 10 A. From this picture, no.
 11 Q. And would it be important before you
 12 provided opinions to know what the exhibit
 13 reflected? Would that be important?
 14 A. Of course.
 15 Q. So let's take a look at Exhibit 146. You
 16 told this jury you cannot determine whether or not
 17 that's 2009; correct?
 18 A. I'm pretty darn sure that is not 2009.
 19 Q. Maybe we could switch. Do you see the
 20 lady with the black top in Exhibit 146?
 21 A. Yes.
 22 Q. Ms. Do is going to blow it up so you can
 23 see it better.
 24 Does that look like Jennifer Haley to
 25 you?

1 A. Yes.

2 Q. Was Jennifer Haley present during 2009?

3 A. Yes.

4 Q. Perhaps we can take a look at the sand

5 that's at the base of the sweat lodge depicted in

6 146 and blow that up. Would you agree with me that

7 there is no cactus growing in the area blown up by

8 Ms. Do in 146?

9 A. Yes.

10 Q. Now, here's my point, Ms. Martin: A few

11 moments ago you provided testimony where the

12 participants were dragged out of the sweat lodge

13 across the cactus and goatheads. Do you recall

14 that?

15 A. I didn't say cactus.

16 Q. If you had said cactus, you would agree

17 with me that that is an exaggeration; correct?

18 A. Right.

19 Q. You told us during that testimony that

20 you were attending to a participant and you really

21 didn't see how the people came out of the sweat

22 lodge.

23 Do you recall that testimony?

24 A. More or less. Yes.

25 Q. And so you personally do not know how

1 those people got out of the sweat lodge; correct?

2 A. In some cases.

3 Q. So when you used each and every time that

4 the participants were dragged out of the sweat

5 lodge, again, that would be an exaggeration;

6 correct?

7 A. What part are you saying is an

8 exaggeration? I don't understand.

9 Q. You would agree with me that this jury is

10 entitled to the truth; correct?

11 A. Absolutely.

12 Q. Without exaggeration; correct?

13 A. Absolutely.

14 Q. And if you cannot see how a person leaves

15 the sweat lodge, and you have no idea whether or

16 not they were dragged?

17 A. I saw them when they got to the tarp.

18 How they got out of the actual sweat lodge, I don't

19 know.

20 Q. Just a moment ago, you told the jury --

21 and let me try to get your statement. You said, at

22 the end everybody, everyone, was beaten by this.

23 Do you recall that testimony?

24 A. Are those the exact words I used?

25 Q. Yes. Except for my client, James Ray --

1 A. Okay.

2 Q. -- Megan and Taylor. Do you recall that

3 testimony?

4 A. I can only testify to the people that I

5 saw that were down.

6 Q. Okay. Now, let's talk about telling the

7 jury the truth without exaggeration.

8 A. Okay.

9 Q. If Dr. Jeanette Armstrong came out of

10 this sweat lodge with her hands up, on her own

11 power, then she was not beaten by the sweat lodge;

12 correct?

13 A. I guess. But I didn't see her.

14 Q. If Danita Olesen came out of this sweat

15 lodge fine, then she was not beaten by the sweat

16 lodge; correct?

17 A. I'm not certain.

18 Q. If Mike Olesen came out of the sweat

19 lodge and he was not beaten by the sweat lodge;

20 correct? Correct?

21 A. I don't know.

22 Q. If Laura Tucker came out of the sweat

23 lodge on her power, she was not beaten by the sweat

24 lodge, as you described; correct?

25 A. I guess.

1 Q. If Melissa Philips came out of the sweat

2 lodge on her own power, she was not beaten by the

3 sweat lodge; correct?

4 A. I don't know.

5 Q. Would you agree with me that this jury is

6 entitled to the truth without exaggeration?

7 A. Absolutely.

8 Q. When the EMS folks arrived, you told us a

9 moment ago that they said what happened? What is

10 all this; correct?

11 A. Uh-huh.

12 Q. Correct?

13 A. Correct.

14 Q. And you recall your interview with

15 Detective Edgerton back on October 23rd?

16 A. Uh-huh.

17 Q. And you told her, why is all -- why are

18 all these people down, was the exact statement from

19 the EMS; correct?

20 A. More or less. I didn't have a recording

21 device, but that was pretty much what they were

22 asking.

23 Q. And yet on December 9th, 2009, on -- at

24 an ABC News exclusive, you said, when the

25 paramedics arrived, they came -- the guy's, like,

1 what happened here? Is this a mass suicide?
 2 Correct?
 3 **A. Possibly.**
 4 **Q.** So that's an exaggeration; correct?
 5 **A. Uh-huh. They might have actually said**
 6 **that. I don't recall.**
 7 MS. POLK: Your Honor.
 8 Excuse me, Mr. Kelly.
 9 THE COURT: Ms. Polk?
 10 Ms. Polk: Pursuant to Rule 613, the state
 11 would request a copy of the document that Mr. Kelly
 12 is reading from.
 13 THE COURT: The state would be entitled to the
 14 statement, the contents or the actual --
 15 MR. KELLY: I don't have a copy, Judge. This
 16 is my cross-examination. I have a good-faith
 17 basis. I asked a question. She answered it. She
 18 said, yes, she said that.
 19 THE COURT: There is the content of the
 20 statement. Continue.
 21 **Q.** MR. KELLY: So I guess you told this
 22 jury -- what happened? What is all this? -- was
 23 the statement from EMS; correct?
 24 **A. Yes.**
 25 **Q.** And then some -- approximately one month

1 later or more, you said the EMS folks said, is this
 2 like a mass suicide; correct?
 3 **A. There were more than one EMS people**
 4 **talking to me, and another one asked that.**
 5 **Q.** So if this is a material fact in this
 6 case, and it's important for this jury to know the
 7 truth, you didn't tell them that on direct, did
 8 you?
 9 **A. I was just following the questions that**
 10 **she asked, as you saw.**
 11 **Q.** Well, the question was, what did the
 12 paramedics say?
 13 **A. Well, I was following --**
 14 **Q.** And your answer was --
 15 **A. -- one paramedic at that moment.**
 16 **Q.** And your answer was, what happened? What
 17 is all this? Correct?
 18 **A. Uh-huh.**
 19 **Q.** Now, would you agree with me that if
 20 you're on ABC and the EMS did not say that, then
 21 that is an example of exaggeration; correct?
 22 **A. But I didn't exaggerate.**
 23 **Q.** You told this jury -- and I wrote this
 24 down -- that Lou Caci fell into the fire and burned
 25 his arm; correct?

1 **A. I'm sorry. Say that again.**
 2 **Q.** You told this jury a couple hours ago
 3 that Lou Caci fell into the fire and burned his
 4 arm; correct?
 5 **A. Yes. I believe I did.**
 6 **Q.** First of all, ma'am, there is no fire in
 7 the sweat lodge; correct?
 8 **A. Semantics.**
 9 **Q.** It's an exaggeration; correct?
 10 **A. No.**
 11 **Q.** There are hot rocks in the sweat lodge;
 12 correct?
 13 **A. As you pointed out, I'm not a medical**
 14 **professional, nor am I a hot-rock professional. I**
 15 **just saw a guy with his arm burned.**
 16 **Q.** And you told this jury about Lou Caci's
 17 injuries that you personally observed as a
 18 nonmedical person. You said that he had burned his
 19 arm and his leg; correct?
 20 **A. Yes. He appeared to have burned his arm**
 21 **and leg.**
 22 **Q.** Both his arm and leg; correct?
 23 **A. That's what it looked like to me.**
 24 **Q.** And then you went further to say that
 25 chunks were falling -- excuse me. You didn't say

1 that. Some bits of skin were falling off his arm;
 2 correct?
 3 **A. Correct.**
 4 MR. KELLY: If I may publish to the jury 176,
 5 which has been admitted, and blow up the burns to
 6 the right hand, please.
 7 **Q.** Ms. Martin, if EMS personnel treating
 8 Mr. Caci diagnosed his burns -- excuse me -- his
 9 injuries as burns to the right hand and arm, that
 10 would be different than your assessment that he had
 11 a leg injury; correct?
 12 MS. POLK: Your Honor, objection to the
 13 characterization of the diagnosis by EMS.
 14 THE COURT: Overruled.
 15 Ms. Martin, you may answer that, if you
 16 can.
 17 THE WITNESS: Ask the question again, please.
 18 **Q.** BY MR. KELLY: This exhibit says the
 19 extent of Mr. Caci's injuries or burns to his right
 20 hand and arm; correct?
 21 **A. Well, from the limited place you're**
 22 **letting me see, yes.**
 23 MR. KELLY: May I approach the witness, Judge?
 24 THE COURT: Yes.
 25 **Q.** BY MR. KELLY: I'm going to hand you what

1 has been admitted as Exhibit 176. You need to tell
2 this jury where it says Mr. Caci has injuries to
3 his legs.

4 **A. Okay.**

5 **Q.** Does not; correct?

6 **A. Correct.**

7 **Q.** So if someone said that there were
8 injuries that did not exist, that might be an
9 exaggeration; correct?

10 **A. I treated his arm, as I stated.**

11 MR. KELLY: If we can see Exhibit 175. Could
12 you blow up the brief history of present illness
13 for us.

14 **Q.** When Mr. Caci was treated by the Verde
15 Valley Medical Center, his history of present
16 illness indicates that patient reports having lost
17 consciousness and landing on hot coals with his
18 arm, which woke him up.

19 Makes no reference to a leg problem, does
20 it ma'am?

21 **A. You're right.**

22 **Q.** And so, again, you would agree with me
23 that the jury is entitled to an accurate
24 recollection as to what happened without
25 exaggeration; correct?

1 **A. Absolutely.**

2 **Q.** Now, you told us at the beginning of your
3 testimony, which I believe was yesterday, that you
4 began working for JRI during February of 2009.

5 **A. I said somewhere around then. I couldn't**
6 **recall exactly.**

7 **Q.** Your application and your interview took
8 place March 21, 2009; correct?

9 **A. Yes. Like I said, I wasn't entirely sure**
10 **of the date.**

11 **Q.** Which means you must have began work
12 during April of 2009; correct?

13 **A. Okay. I don't recall exactly the date,**
14 **as I said.**

15 **Q.** Well, again, it's important to accurately
16 reflect what happened in front of a jury that has
17 to make a decision; true? True?

18 **A. Yes.**

19 **Q.** And in that regard, ma'am, you had never
20 attended a live seminar put on by JRI --
21 correct? -- prior to your employment?

22 **A. Correct.**

23 **Q.** What you did was bought a series of
24 tapes; correct?

25 **A. Correct.**

1 **Q.** You were a realtor. You were working in
2 Mexico. You had lost your job due to political
3 problems in Mexico, so you applied for a job with
4 JRI; correct?

5 **A. That's an exaggeration.**

6 **Q.** That's an exaggeration?

7 **A. On your part.**

8 **Q.** Well, didn't you tell -- on your
9 application didn't you say that because of the drug
10 cartel in Mexico you left your job and moved back
11 to the U.S.?

12 **A. I did not say I had a drug cartel.**

13 **Q.** No, no. Because of the problems
14 associated with that you came back to the U.S.?

15 **A. No. Which is it?**

16 **Q.** Pardon?

17 **A. I'm sorry. I don't understand. You're**
18 **exaggerating. I can't agree to something that I**
19 **didn't say.**

20 **Q.** Okay. Were you unemployed when you
21 started this job with JRI?

22 **A. Yes.**

23 **Q.** Did it start in April of 2009?

24 **A. If that's what the record shows, then**
25 **yes.**

1 **Q.** Were you employed prior to that in Mexico
2 on behalf of a real estate agency?

3 **A. I was the owner of a real estate agency**
4 **that I sold and left.**

5 **Q.** And prior to your employment with JRI,
6 you had never attended a live JRI seminar; correct?

7 **A. Correct.**

8 **Q.** You had only bought the series of tapes;
9 correct?

10 **A. Correct.**

11 **Q.** And you told us on direct examination
12 that after employment you attended approximately
13 one live event per month prior to Spiritual Warrior
14 in 2009; correct?

15 **A. I said that I wasn't exactly sure of how**
16 **many. But it might have been approximately one per**
17 **month.**

18 **Q.** And your position was that of an event --
19 as an event coordinator; correct?

20 **A. Correct.**

21 **Q.** And the event coordinator's
22 responsibility was to assist with the selection of
23 Dream Team members for all JRI events; correct?

24 **A. That was one of the things I did.**

25 **Q.** Your responsibility was to ensure that

1 the Dream Team is fulfilling their roles in acting
2 in an efficient, effective, and responsible manner
3 throughout the event; correct?

4 **A. Are you referring to all events or just
5 Spiritual Warrior?**

6 **Q.** I'm talking about your position contract
7 as an event coordinator for JRI.

8 **A. On the whole, yes. Except for Spiritual
9 Warrior I was not an event coordinator.**

10 MS. POLK: Excuse me, Your Honor. But again
11 the state would request pursuant to Rule 613 a copy
12 of the exhibit, the document, that Mr. Kelly is
13 reading from.

14 MR. KELLY: It's not an exhibit.

15 **Q.** You signed a position contract with JRI;
16 correct?

17 **A. Yes.**

18 **Q.** Did you read it before you signed it?

19 **A. Yes. I would presume so.**

20 **Q.** Were you aware it's your job to ensure
21 the Dream Team is fulfilling their roles and acting
22 in an efficient, effective, and responsible manner
23 throughout the event?

24 **A. I did that on every event except for this
25 one. Yes.**

1 **Q.** Were you aware that it was necessary for
2 you to obtain adult CPR, AED and first-aid
3 certification and serve in a first-aid support role
4 at events as needed?

5 **A. Yes. As soon as I was told to do -- go
6 to CPR class, I certainly did that. And I was
7 happy to do that.**

8 **Q.** And were you aware that it was your
9 responsibility to publish the event dates and
10 participant guides online and ensure distribution
11 of the participant guides to the groups?

12 **A. Yes. That's what I did as an event
13 coordinator.**

14 MR. KELLY: And we have in evidence
15 Exhibit 736. If I may approach, Judge.

16 THE COURT: Yes.

17 **Q.** BY MR. KELLY: So this Spiritual Warrior
18 participant guide -- it's distribution to the
19 participants at the Spiritual Warrior was your job;
20 correct?

21 **A. I was not the event coordinator at
22 Spiritual Warrior. That was Megan Fredrickson.**

23 **Q.** And Megan was your supervisor, I
24 understand?

25 **A. Yes.**

1 **Q.** Now, do you have any doubt that this
2 participant guide went out to the participants
3 online during July of 2009?

4 **A. It was available online. Yes.**

5 **Q.** So you knew that?

6 **A. That I'm aware of.**

7 **Q.** You knew that; correct?

8 **A. I don't know.**

9 **Q.** You don't know if you knew that?

10 **A. Ask the question again.**

11 **Q.** You knew that this participant guide was
12 available to the prospective participants before
13 the event; correct?

14 **A. Presumably.**

15 **Q.** Did you know or not? I don't want you to
16 presume. I want you to tell the jury.

17 **A. Since I wasn't the event coordinator,
18 that was Megan's role in this particular event.**

19 **Q.** So what was your role?

20 **A. The liaison. She took me out of that
21 role for this event.**

22 **Q.** So you wouldn't know whether or not the
23 participant guide contained in the back a release
24 of liability to be signed by the participant on
25 behalf of JRI?

1 **A. You want me to testify to something that
2 I didn't do?**

3 **Q.** No. I asked you a question. Since
4 you've never seen this, you don't know that there
5 is a waiver attached to the back?

6 **A. I can testify to the times when I have
7 been an event coordinator for all of the other
8 events I was event coordinator and how it was done
9 in the past for previous events.**

10 **Q.** If you will look at this exhibit,
11 ma'am --

12 **A. Okay.**

13 **Q.** Look on the last two pages.

14 **A. Okay.**

15 **Q.** My question is, given your testimony, you
16 were not aware that there was a release provided to
17 all these participants. That's your testimony in
18 front of this jury?

19 **A. That's not what I said.**

20 **Q.** Okay. So you were aware; correct?

21 **A. I know that this was generally released
22 to the participants prior to each event.**

23 **Q.** So you knew that they had to sign a
24 release; correct?

25 **A. Yes. People signed releases --**

1 Q. And you knew that that release contained
2 a description of the events; correct?

3 A. Correct.

4 Q. And you knew in this release it told the
5 participants about a Vision Quest; correct?

6 A. I don't know. I didn't do this
7 particular release.

8 Q. Take a look at the exhibit. Don't guess.

9 A. You're asking me to my prior knowledge.
10 I can read it and tell you what it says.

11 Q. Now you're looking at the exhibit?

12 A. Okay.

13 Q. And does not the exhibit say that the
14 participants may be involved in activities which
15 may include physical exercise, Holotropic
16 Breathwork, a sweat lodge ceremony, a Vision Quest.
17 Did you know that before you went to Sedona?

18 A. I was aware that these were going to be
19 there based on my briefing with Megan. Yes.

20 Q. Did you know that this release contained
21 that notification to the participants?

22 A. I just presume it did.

23 Q. Did you know that the participants had to
24 sign this release before they could participate?

25 A. I presume that they would.

1 Q. Ma'am, I don't want you to presume.

2 A. I don't either. I want to tell you the
3 exact truth without exaggeration, as you asked me
4 to do.

5 Q. I'm going to ask you a yes or no
6 question, and I'd ask for a yes or no response.

7 A. Okay.

8 Q. Did you know that the participants had to
9 sign this release before they could participate?

10 A. I did not see them sign it.

11 Q. I'm going to slow down. I'm going to ask
12 my question very slowly.

13 A. I'm not going to exaggerate a word.

14 Q. I'm not asking you what you saw. I'm
15 asking you what you know.

16 A. Okay.

17 Q. Did you know the participants were
18 required to sign this release before they could
19 participate in Spiritual Warrior?

20 A. I presumed that they did, as was
21 generally the rule for every other event.

22 Q. Did you know that this release contained
23 notification as to the types of activities to be
24 conducted at the Spiritual Warrior?

25 A. Instead of doing this, I was in the

1 parking lot, bringing in people. I was not a part
2 of this particular section of the event.

3 Q. Well, you had worked for JRI for six
4 months; correct?

5 A. Right.

6 Q. An entity that has 27 employees; correct?

7 A. Yes.

8 Q. And you're one of those employees;
9 correct?

10 A. Right.

11 Q. And you're working hard trying do your
12 job?

13 A. Yes.

14 Q. You're told you're going to Spiritual
15 Warrior; correct? And my question's real simple.
16 Did you know that the participants were provided
17 notification as to the types of activities. That's
18 a yes or no response.

19 A. I can't answer yes or no.

20 Q. Were you doing your job to the best --

21 A. I would be very happy to explain to you.
22 But I can't answer yes or no. It's just more
23 complicated then that.

24 Q. Well, you don't have any reason to
25 dispute the fact that the participants were

1 provided with this release before participation;
2 correct?

3 A. Listen, because I didn't give it to them,
4 I know that they --

5 MR. KELLY: Judge, I'd ask you to instruct the
6 witness to answer.

7 THE COURT: Ma'am, you acknowledged -- you can
8 answer yes or no, if you can do that. If you
9 can't, you can say I'm not able to answer yes or
10 no --

11 THE WITNESS: If they weren't given it in this
12 particular event, I don't know.

13 THE COURT: If the attorneys want to ask for
14 further explanation, they can. But when there is a
15 question, if you can't answer yes or no, go ahead
16 and do it that way. If you just can't do it in
17 that fashion, you have to let us know that as
18 well --

19 THE WITNESS: That's why I said -- I said I
20 can't answer that yes or no. I would love to
21 explain --

22 MR. KELLY: Do you have any reason to --

23 THE COURT: Mr. Kelly, you're talking on top.
24 Start over and let Mina get this squared away here.

25 Mr. Kelly, would you ask a question.

1 Q. BY MR. KELLY: Do you have any reason to
2 dispute the fact that each and every participant at
3 the Spiritual Warrior 2009 signed this release?
4 A. No.
5 Q. And you said that you were the liaison
6 between Angel Valley and JRI; correct?
7 A. Yes.
8 Q. And your boss is Megan; correct?
9 A. Correct.
10 Q. And your contact person at Angel Valley
11 is Amayra Hamilton?
12 A. She was one of them.
13 Q. Who else?
14 A. The chef, Kerstin, Ingrid, Michael, Fawn.
15 Q. A bunch of people?
16 A. Yes.
17 Q. And you knew that Angel Valley was the
18 entity that provided all the lodging on behalf of
19 the participants at Spiritual Warrior; correct?
20 A. Correct.
21 Q. They provided all the food; correct?
22 A. Correct.
23 Q. Had you been there before?
24 A. No.
25 Q. How many days early did you show up?

1 A. I think a day, day and a half, two days.
2 Q. Did you take a walk around the premises?
3 A. Yes. We had a guided tour.
4 MR. KELLY: Can we put up Exhibit 140.
5 Q. Ms. Polk asked you some questions about
6 Exhibit 140. Do you recall those questions?
7 A. More or less. Yes.
8 Q. And on the screen now is Exhibit 140. My
9 question is, this little map of Angel Valley and
10 its energy sites is provided by or was provided by
11 Angel Valley; correct?
12 A. Yes.
13 Q. That's not a JRI document; correct?
14 A. Correct.
15 Q. And, in fact, if you take a look at the
16 backside, it says the exhibit number. It provides
17 the website as well as the telephone number for
18 Angel Valley; correct?
19 A. Yes.
20 Q. Now, when you took this tour, you toured
21 all the lodging; correct?
22 A. No.
23 Q. You didn't go through everywhere all the
24 folks were going to be staying? What was the tour?
25 A. Mostly it had to do with the Vision Quest

1 spots.
2 Q. And I think your recollection is that you
3 had to learn where your Vision Quest spots were.
4 You made several trips because you knew you were
5 going to be going out there at nighttime without a
6 flashlight; correct?
7 A. Correct.
8 Q. So for safety reasons, as an example, you
9 wanted to know where you were going to take your
10 participants; correct?
11 A. Correct.
12 Q. You had 23 participants; correct?
13 A. I believe so.
14 Q. And you had more participants than anyone
15 else; correct?
16 A. Yes.
17 Q. And your spots were further away than
18 anybody else; correct?
19 A. That's true.
20 Q. And you said Oak Creek was dry; correct?
21 A. There was a wash. It wasn't totally dry.
22 No. But there was a lot of sand wash area that we
23 had to cover.
24 Q. And apparently you could -- if you wanted
25 to, you could walk through the riverbed. It wasn't

1 a raging river like the Colorado?
2 A. I believe so. Yes. I didn't go through
3 the river at all.
4 Q. And your 23 spots were up by where it
5 says north, in that general area on Exhibit 140;
6 correct?
7 A. Yes. In that general area there. I did
8 not cross the river at all. I didn't go through
9 the river personally.
10 Q. And you would agree with me, would you
11 not, that the release that you and I were talking
12 about identified the Vision Quest as a multiday
13 event with no food or water. Did you know that?
14 A. I would have to read it.
15 Q. Go ahead.
16 A. Would you like me to read it?
17 Q. Sure.
18 A. Yes. It says that.
19 Q. And these 23 people that you took out had
20 signed that release; correct?
21 A. Uh-huh. I presume they did.
22 Q. And you could presume that they went out
23 there on their own free will; correct?
24 A. Yes.
25 Q. Your boss was Megan Fredrickson, and her

1 husband, Josh, was present at Spiritual
 2 Warrior 2009; correct?
 3 **A. Yes.**
 4 **Q.** I believe you said that Taylor Butler, an
 5 employee of JRI, was also present; correct?
 6 **A. Yes.**
 7 **Q.** And then there were some Dream Team
 8 members -- Jennifer Haley, Christine Jobe, Mark
 9 Rock, Aaron Bennett, Liz Neuman, and Lisa Rondan;
 10 correct?
 11 **A. Correct.**
 12 **Q.** Ms. Martin, I'm going to hopefully ask
 13 you a few questions about the corporate structure
 14 of JRI. Okay?
 15 **A. Okay.**
 16 **Q.** Now, there's a CEO or president; correct?
 17 **A. Of course, you know I'll be guessing on**
 18 **all this.**
 19 **Q.** Let's see whether -- how much you
 20 remember.
 21 **A. Okay.**
 22 **Q.** If I were to tell you that the CEO and
 23 president of JRI is Mr. Ray, do you have any reason
 24 to dispute that?
 25 **A. I've never seen his corporate paperwork.**

1 **I would presume so.**
 2 **Q.** And if Mr. Ray had an executive
 3 assistant, would you know who that is?
 4 **A. I presume that would be Amy.**
 5 MS. POLK: Your Honor, objection to the
 6 foundation of this witness to be answering these
 7 questions.
 8 THE COURT: Sustained.
 9 **Q.** BY MR. KELLY: You worked for JRI;
 10 correct?
 11 **A. Yes.**
 12 **Q.** You just told us about all these
 13 employees who were present at Spiritual
 14 Warrior 2009; correct?
 15 **A. Yes.**
 16 **Q.** You were following their directions;
 17 correct?
 18 **A. I'm sorry. Whose direction was I**
 19 **following?**
 20 **Q.** Wow. Megan, for one; correct?
 21 **A. Megan.**
 22 **Q.** And you worked for Megan; correct?
 23 **A. Uh-huh.**
 24 **Q.** Do you know where Megan fit in in the --
 25 do you know what her title was?

1 **A. I know what her title was. But you asked**
 2 **for corporate structure. I don't know where she**
 3 **fits in the tax or the official corporate**
 4 **structure. Her -- direct of operations is what she**
 5 **called herself.**
 6 **Q.** Now, you also told us on direct that
 7 Mr. Ray had a personal assistant; correct?
 8 **A. Yes.**
 9 **Q.** Who was that?
 10 **A. Taylor Butler.**
 11 **Q.** You told us about Josh; correct?
 12 MS. POLK: Your Honor, objection. Counsel is
 13 drawing things on this easel that this witness has
 14 not testified to. He's putting people in boxes
 15 without any foundation from this witness.
 16 THE COURT: Ladies and gentlemen, I'll repeat
 17 what I said before. What the lawyer's say is not
 18 in any way evidence. What they draw would not in
 19 any way be evidence either. So Mr. Kelly is asking
 20 questions. What's put on that piece of paper there
 21 is not evidence.
 22 Mr. Kelly, you may continue.
 23 MR. KELLY: I don't intend to admit it, Judge.
 24 It's demonstrative purposes only.
 25 **Q.** So you told us on direct that you knew

1 that Taylor Butler was the personal assistant to
 2 Mr. Ray; correct?
 3 **A. That's what I was told.**
 4 **Q.** And you said that his executive assistant
 5 was Amy; correct?
 6 **A. I believe so. Yes.**
 7 **Q.** And Megan was the director of operations;
 8 correct?
 9 **A. Yes.**
 10 **Q.** Do you know who the director of business
 11 growth was?
 12 **A. No.**
 13 **Q.** Did you know a fellow by the name of Greg
 14 Hartle?
 15 **A. Yes.**
 16 **Q.** Did he work for JRI?
 17 **A. Yes.**
 18 **Q.** Do you have any reason to dispute the
 19 fact that he may have been the director of business
 20 growth?
 21 **A. They were in the -- they were changing**
 22 **titles but -- so I presume that might be what he**
 23 **landed with.**
 24 **Q.** You said a person named Josh?
 25 **A. Yes.**

1 Q. You knew if he worked for JRI?
 2 A. Yes.
 3 Q. And did you know that Josh was a manager
 4 of technology?
 5 A. Yeah. He seemed to be involved with
 6 technology.
 7 Q. Did you know there was a marketing
 8 specialist?
 9 A. Yeah. Who --
 10 Q. Joanna.
 11 A. Okay.
 12 Q. Did you meet Joanna at the office?
 13 A. Yes. I've met Joanna.
 14 Q. Did you know a person by the name of Alex
 15 in the office?
 16 A. Yes.
 17 Q. Pardon me?
 18 A. Yes.
 19 Q. Did you hear him referred to as the
 20 "controller"?
 21 A. I don't recall him being controller. But
 22 if you say so.
 23 Q. Did you know a person by the name of
 24 Becky in the office?
 25 A. Yes.

1 Q. Did you know that she had the title of
 2 administrative manager?
 3 A. Like I said, titles were changed a lot.
 4 So if you say so.
 5 Q. You did know that your position was that
 6 of event coordinator; correct?
 7 A. On the events I was the event
 8 coordinator. On the events where I wasn't, I
 9 wasn't.
 10 Q. Because you were a brand new employee;
 11 correct?
 12 A. I don't know.
 13 Q. You had only been there six months;
 14 correct?
 15 A. Okay.
 16 Q. And you had no direct contact with James
 17 Ray; correct?
 18 A. I had some direct contact with him.
 19 Q. Well, I recall that when you had direct
 20 contact with him, like on the side of a stage at an
 21 event, you would receive a text message from Megan
 22 asking you, what are you doing contacting James
 23 Ray?
 24 Do you recall that?
 25 A. Yes.

1 Q. Yes.
 2 A. At the very beginning she did do that.
 3 She tried to keep him in this high position where
 4 nobody could talk to him.
 5 Q. And you wondered why isn't James telling
 6 me that I can't have any direct contact with him;
 7 correct?
 8 A. No. Because later on he did initiate his
 9 own direct contact with me.
 10 Q. And you were actually -- thought it was
 11 interesting that James Ray didn't even come into
 12 the office very often, only a couple days a month;
 13 correct?
 14 A. I don't know. Did I tell you that?
 15 Q. You and I have never met; correct?
 16 A. Right. So I don't know if I've said that
 17 or not. I think it's up to him.
 18 Q. Well, were you aware that he was making
 19 21 appearances a month on the road?
 20 A. Yes. He did the two-hour events.
 21 Q. And do you recall telling the detective
 22 in your October 23rd interview that he only came
 23 into the office a couple times a month?
 24 A. I don't even know if he came in that
 25 often. He was busy.

1 Q. Do you recall telling the detective that
 2 you did not have a lot of contact with James Ray?
 3 A. I did not have a lot of contact with him
 4 except at events.
 5 Q. And when the participants showed up
 6 in 2009 to sign their release, James Ray was not
 7 there?
 8 A. No, he wasn't.
 9 Q. When the participants were showed their
 10 rooms, where they were going to stay, wasn't by
 11 James Ray; correct?
 12 A. Correct. James Ray was not there.
 13 Q. When the participants went out on the
 14 Vision Quest to go through that activity, was not
 15 with James Ray; correct?
 16 A. You mean physically James Ray being
 17 there?
 18 Q. James Ray.
 19 A. Correct.
 20 Q. So that they could have a conversation or
 21 a communication with him; correct?
 22 A. I'm sorry. Say that again.
 23 Q. My point is, when they are going out on
 24 the Vision Quest, when they're going to their room,
 25 they're not having contact with James Ray; correct?

1 **A. Well, they just spent the last four hours**
 2 **playing the game with him. So they did have**
 3 **contact with him.**

4 **Q.** Do you have difficulty understanding my
 5 question?

6 **A. Yes, I am.**

7 **Q.** Okay. Let's try it again.

8 **A. Okay.**

9 **Q.** When they go out to the Vision Quest,
 10 James Ray is not leading any participants out
 11 there; correct?

12 **A. Correct.**

13 **Q.** When they are going to their rooms at
 14 night, James Ray is not showing them where the room
 15 is; correct?

16 **A. That's right.**

17 **Q.** When they're showing initially where they
 18 are going to lodge, it's not James Ray showing
 19 them; correct?

20 **A. Right.**

21 **Q.** When they sign their release at that
 22 table, it's not James Ray that is having them sign
 23 that release; correct?

24 **A. Correct.**

25 **Q.** And the reason I point that out is,

1 remember this whole thing about exaggeration? You
 2 were answering questions attributing it to my
 3 client when actually it was JRI; correct?

4 **A. Okay.**

5 **Q.** And you were part of that corporate
 6 entity, part of this group -- and I've left some
 7 folks off. I believe there is 27 employees.

8 Does that sound right?

9 **A. Possibly.**

10 **Q.** Pretty good size company; correct?

11 **A. Uh-huh.**

12 **Q.** And all these people working at JRI have
 13 different roles and responsibilities, including
 14 you; correct?

15 **A. Correct.**

16 **Q.** And James Ray was not putting on the
 17 Spiritual Warrior 2009 event by himself; correct?

18 **A. That's correct.**

19 **Q.** Now, what he did do -- and let me try to
 20 clarify -- is that there would be group meetings in
 21 which James Ray would make a presentation; correct?

22 **A. Correct.**

23 **Q.** And that would be the opportunity or the
 24 time in which the participants would have
 25 potentially one-on-one contact with Mr. Ray;

1 correct?

2 **A. Yes.**

3 **Q.** We talked about my final --

4 If I could have just a couple minutes,

5 Judge?

6 THE COURT: Yes.

7 MR. KELLY: If we could publish Exhibit 143.

8 I'll just use this.

9 If we could zoom in.

10 **Q.** Ms. Martin, this is Exhibit 143. Do you
 11 recognize it as the line of participants entering
 12 the sweat lodge in 2009?

13 **A. It's very hard to tell from this picture.**
 14 **Can I see it in my hand?**

15 **Q.** Sure.

16 **A. I'm sorry. Again, it's really hard to**
 17 **tell from this particular picture.**

18 **Q.** So --

19 **A. If you can blow it up so it's bigger.**

20 **Are you trying to have me identify the overall**
 21 **picture of it being from 2009?**

22 **Q.** I'm asking you whether you recognize that
 23 as the line of people --

24 **A. I don't.**

25 **Q.** -- from 2009 just before they entered the

1 sweat lodge?

2 **A. I can't say if it was or if it wasn't.**

3 **Q.** Now, let's assume --

4 **A. Excuse me. Okay.**

5 **Q.** Now, Ms. Martin, would you agree with me,
 6 starting with this person right here, that her head
 7 is not shaved?

8 **A. Yes.**

9 **Q.** Would you agree with me that this next
 10 person right behind her, her head is not shaved?

11 **A. No. I can't agree with that. I can't**
 12 **see.**

13 **Q.** Okay. So now, going back to my very
 14 first question -- I got a haircut. I took the
 15 challenge Sunday. Is my head shaved, by your
 16 definition?

17 **A. No. I don't know.**

18 **Q.** I mean -- do you recall at the beginning
 19 of your testimony --

20 **A. I don't know in what format you had your**
 21 **hair cut or the buzz cut or --**

22 **Q.** I'm not the witness.

23 **A. Okay.**

24 **Q.** Do you recall at the beginning of your
 25 testimony, in response to Ms. Polk's questions, you

1 said many people had their heads shaved? Do you
2 recall that?

3 **A. Yes, I do.**

4 **Q.** Now, my question is, is it more accurate
5 to say that many people got a haircut?

6 **A. I watched a buzzer.**

7 **Q.** Okay. So simply using a buzzer to -- you
8 mean shaved versus down to the skin?

9 **A. Yes.**

10 **Q.** So if shaved means taking a razor and
11 shaving your head, then maybe this guy qualifies
12 for it?

13 **A. Possibly, yeah.**

14 **Q.** Maybe this guy; correct?

15 **A. Probably, yeah.**

16 **Q.** And that fellow there might even;
17 correct?

18 **A. Possibly.**

19 **Q.** But all these other people either have
20 gotten a haircut or even perhaps not; correct?

21 **A. Well, if we were presuming, once again,**
22 **like you said, let's say the girl in the blue.**

23 **Her? No.**

24 **Next one. Okay. She has some hair, but**
25 **there were girls that looked just like that who --**

1 **they had a buzz, a thing, and they shaved their**
2 **heads. All their hair came off. They started with**
3 **long hair and ended up looking like that.**
4 **Now, there is evidence of hair there, but**
5 **to me, that's shaved, like they had their head**
6 **shaved.**

7 **Q.** It's important, is it not, to not
8 sensationalize or exaggerate testimony; agreed?

9 **A. Right.**

10 MR. KELLY: Judge?

11 THE COURT: Ladies and gentlemen, we'll take
12 the next short recess I discussed. Please be back
13 ready to come back into the courtroom at 10 after,
14 about 10 minutes. Remember the admonition.

15 Thank you.

16 (Recess.)

17 THE COURT: The record will show the presence
18 of the defendant, Mr. Ray, the attorney, the jury.
19 Ms. Martin is on the witness stand.

20 Mr. Kelly?

21 MR. KELLY: Thank you.

22 **Q.** Ms. Martin, right before the break you
23 agreed with me that this jury is entitled to know
24 what happened without exaggeration; correct?

25 **A. Yes.**

1 **Q.** That would only be fair to this jury in
2 rendering any decision; correct?

3 **A. Yes.**

4 **Q.** After this event, you appeared on several
5 media shows; correct?

6 **A. Correct.**

7 **Q.** What I found out is ABC News on
8 December 8th and December 9th, 2009. Do you recall
9 that?

10 **A. I do.**

11 **Q.** And how did that come about?

12 **A. It came about as a bit of an ambush. We**
13 **told them we didn't want to do any sort of media,**
14 **and they showed up at the hotel where I was.**

15 **Q.** What community was that in?

16 **A. Here is in Sedona.**

17 **Q.** The publication date was December 8th,
18 2009. Are you saying you were in Sedona on
19 December 8th, 2009?

20 **A. I don't recall the exact date. And I'm**
21 **not sure exactly when they published it after that.**
22 **But I was traveling across country.**

23 **Q.** And that's what I'm trying to figure out.
24 The sweat lodge occurred in October of 2009. This
25 ABC News special was in December of 2009. My

1 question is, were you here in Sedona in December?

2 **A. Yes, traveling across country.**

3 **Q.** And they showed up. It was an ambush.
4 You weren't expecting it; correct?

5 **A. Correct. Yes.**

6 **Q.** And what did -- and you agreed to speak
7 to them; correct?

8 **A. Yes. I can explain if you like.**

9 **Q.** Sure. Go ahead.

10 **A. Okay. I was coming here to meet a couple**
11 **of the ladies. And we had agreed beforehand**
12 **because we had all received requests. And we said**
13 **we were not going to do any media. And then when**
14 **we went to a hotel here, one of the ladies'**
15 **attorneys had told his friend, who worked for ABC,**
16 **that we were going to be there. And so they all**
17 **arrived --**

18 **Q.** I'm sorry for interrupting you. And
19 that's the ambush that you described; correct?

20 **A. Well, it was. Yeah. It wasn't something**
21 **that I had planned, for sure. In fact, I said we**
22 **had agreed not to. And then they showed up anyway.**

23 **Q.** Because you told Megan on an earlier
24 occasion, in October of 2009, that you didn't agree
25 with people getting their 15 minutes of fame.

1 Do you recall that?

2 **A. I don't recall talking to her about that.**

3 **Q.** It was actually a text message.

4 **A. Okay. Possibly.**

5 **Q.** So you're kind of ambushed in December

6 of 2009 in Sedona. When you're interviewed -- I'm

7 using the word "ambush." I'm trying to think of a

8 different word. But you didn't have any prior

9 knowledge that this was going to happen; correct?

10 **A. Yeah. The way -- because I -- it wasn't**

11 **something that I'd planned. In the same way, I**

12 **didn't plan to be here and be on television and be**

13 **testifying in a trial.**

14 **Q.** And then also you appeared on CNN --

15 **A. Yes.**

16 **Q.** -- a different channel, with Anderson

17 Cooper, on December 14th, 2009. And I think the

18 fellow who actually interviewed you was a person by

19 the name of Gary Tuchman; correct?

20 **A. Correct.**

21 **Q.** What were the circumstances behind that?

22 Were you ambushed again?

23 **A. No.**

24 **Q.** Okay. Where did that take place?

25 **A. In New York.**

1 **Q.** Did you go to New York?

2 **A. Yeah. I moved to New York.**

3 **Q.** That was a poor question. Did you go to

4 New York specifically for the purpose of being

5 interviewed by CNN or were you there for some other

6 reason?

7 **A. I was there planning to move there. I**

8 **was there also doing that.**

9 **Q.** At that time you were interviewed by Gary

10 Tuchman. And then later on December 14th, it was

11 put on Anderson Cooper at CNN; correct?

12 **A. Again, I'm not sure of the dates. But if**

13 **that's what you believe to be true --**

14 **Q.** This time you knew in advance that, in

15 fact, you were going to be on TV; correct?

16 **A. Correct.**

17 **Q.** So did they do the whole studio, makeup

18 thing?

19 **A. I don't know.**

20 **Q.** Well, I mean, you were there so --

21 **A. Yeah. I was there, and I interviewed.**

22 **Q.** Okay. So did they have you in a studio?

23 **A. Yes.**

24 **Q.** Did they talk to you about your

25 appearance?

1 **A. I don't know. Maybe.**

2 **Q.** Makeup?

3 **A. I don't think they were concerned with my**

4 **appearance.**

5 **Q.** I didn't ask you whether they were

6 concerned. I asked you whether or not you went to

7 a studio, whether they discussed your appearance to

8 appear on national TV, whether they had makeup,

9 things of that nature.

10 **A. Did they discuss that with me, my**

11 **appearance as in how I look or the fact that I'm**

12 **appearing?**

13 **Q.** No. I see. On how you looked?

14 **A. No.**

15 **Q.** What about makeup? Did they help you

16 with that?

17 **A. Yes. They touched up my makeup.**

18 **Q.** Then, finally, I understand that you

19 appeared on Dateline, which is MSMBC, June 12th,

20 2010. Correct?

21 **A. Sure. Since I did ABC, I might as well**

22 **do the other ones because --**

23 **Q.** Interview equal?

24 **A. -- it was part of my therapy on getting**

25 **through what I had gone through.**

1 **Q.** Well, but the therapist told you not to

2 talk about what happened; correct?

3 **A. What therapist?**

4 **Q.** Your therapist from California.

5 **A. I'm sorry. Who?**

6 **Q.** Dr. Simone Martin on October 19th, 2009?

7 **A. I don't know who that is. I'm sorry.**

8 **Q.** Provided an opinion. Says that you have

9 difficulty with concentrating, with focusing.

10 **MS. POLK:** Your Honor, pursuant to state

11 Rule 613, the state would request a copy of

12 whatever it is that Mr. Kelly is reading from.

13 **THE COURT:** I have a foundation question also

14 or problem in light of Ms. Martin's answer as to

15 not knowing this person.

16 **Q.** BY MR. KELLY: Ms. Martin, did you go to

17 Dr. Luigi Simone?

18 **A. He was my general family practitioner.**

19 **Q.** Scripps Clinic on October 19th, 2009?

20 **A. I don't know the date. But yeah. He was**

21 **my family practitioner.**

22 **Q.** Did you ask him for a letter about your

23 medical condition?

24 **A. I asked him to explain to them why I**

25 **didn't want to go back to work after that. It was**

1 **too stressful after watching people die.**
 2 Q. Did he provide an opinion that you have
 3 difficulty concentrating and focusing?
 4 A. **Yes. After this my -- all I did was**
 5 **relive the horrible events of that day.**
 6 Q. And --
 7 A. **It was a very traumatic moment.**
 8 Q. Do you recall Dr. Simone providing an
 9 opinion that it will be unclear when she'll be
 10 medically ready to go back to work?
 11 A. **Yes.**
 12 Q. So how long did it take --
 13 MS. POLK: Excuse me, Mr. Kelly.
 14 Again, Your Honor, pursuant to 613, the
 15 state would like a copy of this document.
 16 MR. KELLY: That's fine.
 17 Q. My question is, how long did you suffer
 18 from these problems before you were able to go back
 19 to work?
 20 A. **I didn't go back to work.**
 21 Q. You're not working today?
 22 A. **No. I didn't go back to work for James**
 23 **Ray.**
 24 Q. Okay. The doctor's letter says, it's
 25 unclear when she will be able to go back to work.

1 A. **Right.**
 2 Q. My question is, when did you go back to
 3 work?
 4 A. **To work where?**
 5 Q. Anywhere.
 6 A. **The next year.**
 7 Q. So was this event so significant and
 8 traumatizing that you were not able to work for a
 9 year? Is that your testimony?
 10 A. **I didn't say that.**
 11 Q. Okay. That's my question.
 12 A. **I said the next year. I moved. I had to**
 13 **change my whole life.**
 14 Q. Listen to my question.
 15 A. **Okay.**
 16 Q. The doc says you're not ready to go back
 17 to work; correct?
 18 A. **Yes.**
 19 Q. My question is, when did you go back to
 20 work. You said a year; correct?
 21 A. **No. I said the next year.**
 22 Q. The next year. My question is, when were
 23 you emotionally, psychologically able to go back to
 24 work, in your mind?
 25 A. **I'm not sure. What do you mean?**

1 Q. Were you still suffering from this
 2 emotional problem in November of 2009?
 3 A. **Yes.**
 4 Q. Were you still suffering from these
 5 emotional problems in December 2009?
 6 A. **They weren't emotional problems. They**
 7 **were memories of people dying around me and having**
 8 **a very stressful day. And it was really hard for**
 9 **me to roll back into the next event the following**
 10 **Tuesday and the following weekend when James had a**
 11 **big three-day event. I wasn't able to go and be --**
 12 **and perform at my highest peak when I had just**
 13 **undergone such a horrific experience the week --**
 14 **just days before.**
 15 Q. So --
 16 A. **This letter had to do with me not being**
 17 **able to just jump right back into the next event.**
 18 Q. This letter actually had to do with your
 19 workers' comp claim; correct?
 20 A. **I didn't file a workers' comp claim.**
 21 Q. You didn't?
 22 A. **I did not. Megan filed one for me, and I**
 23 **refused it.**
 24 Q. You know you're under oath -- correct? --
 25 Ms. Martin?

1 A. **She had me sign it. She gave me**
 2 **everything, and I would not file it.**
 3 Q. Now, my question was, these problems that
 4 you're experiencing, you were unable to go to work
 5 in November of 2009. You just told us that;
 6 correct?
 7 A. **Okay.**
 8 Q. My next question was, were you able to go
 9 to work in December of 2009?
 10 A. **I did not work in December of 2009.**
 11 Q. I understand that. Were you able to go
 12 back to work in December of 2009 given your medical
 13 condition?
 14 A. **I didn't have a medical condition. I was**
 15 **traumatized by the situation.**
 16 Q. Then the traumatization that you
 17 suffered, were you able to go to work in December
 18 of 2009?
 19 A. **I did not go back to work in December**
 20 **in 2009. I had to recreate my life. And that's**
 21 **what I was having to do.**
 22 Q. Do you have difficulty understanding my
 23 question today?
 24 A. **Yes.**
 25 Q. Were you able, able, to go back to work

1 given your traumatization in December of 2009?

2 **A. I don't understand the question.**

3 **Q.** Well, we know that you were able to give
4 ABC and CBS interviews; correct?

5 **A. Yeah. I was able to talk about the**
6 **experience.**

7 MS. POLK: Your Honor, the state would request
8 the previous letter and this workers' comp claim be
9 marked and admitted into evidence.

10 MR. KELLY: I have no objection to that,
11 Judge.

12 THE COURT: Then by stipulation we'll have
13 that marked and admitted.

14 MS. POLK: As well as the previous letter that
15 Mr. Kelly was reading from.

16 MR. KELLY: Judge, I'd ask the bailiff to make
17 a copy so it doesn't have the highlighted
18 provision. And I have no objection.

19 THE COURT: We can mark those, and we'll make
20 sure to get copies, Mr. Kelly, before the day is
21 out.

22 Do you have the numbers? I'll go ahead
23 and announce.

24 MR. KELLY: This, Judge, is my only copy, and
25 it has highlights.

1 THE COURT: Show that to Ms. Polk.

2 MR. KELLY: She's seen them both, Judge.

3 MS. POLK: Your Honor, I'm not sure what I've
4 seen, but I would like a copy of both.

5 Thank you.

6 **Q.** BY MR. KELLY: Ms. Martin, did you suffer
7 from any medical disability that would prevent you
8 from going to work in January of 2010?

9 **A. Mental disability?**

10 **Q.** Any kind.

11 **A. I don't think I'm able to answer that**
12 **question. I'm not a medical doctor.**

13 **Q.** Did you suffer any medical disability
14 that would prevent you from going to work in
15 February of 2010?

16 **A. I'm not sure what you mean by that.**

17 **Q.** Did you suffer any medical disability
18 that would prevent you from going to work in March
19 of 2010?

20 **A. I don't know what you mean. I didn't**
21 **have a mental disability, and I still don't. I was**
22 **just traumatized by a situation.**

23 **Q.** You were traumatized to the extent that
24 your doctor provided an opinion that you were --

25 THE COURT: The two exhibits that have been

1 admitted by stipulation are 785 and 786.

2 (Exhibits 785 and 786 admitted.)

3 MS. POLK: Your Honor, can I ask which is
4 which?

5 THE COURT: As soon as we know.

6 785 is the workers' compensation form.

7 Mr. Kelly?

8 MR. KELLY: May I publish Exhibit 786?

9 THE COURT: Yes.

10 **Q.** BY MR. KELLY: 786, Ms. Martin, says, as
11 I indicated, from Dr. Simone, it is unclear when
12 she will medically be ready to go back to work.

13 Correct? It is unclear when she will be medically
14 ready to go back to work.

15 Do you see that line?

16 **A. Yes, I do.**

17 **Q.** My question is, when were you medically
18 ready to go back to work?

19 **A. When I felt better about that.**

20 **Q.** When was that?

21 **A. I'll have to get a calendar and figure**
22 **out that.**

23 **Q.** When did you --

24 **A. That letter pertained to me not wanting**
25 **to continue on with events with James Ray**

1 **International.**

2 **Q.** So this letter only pertains to your
3 ability to go back to work at James Ray
4 International. Is that your testimony?

5 **A. That was -- I was stressed during that**
6 **time.**

7 **Q.** Even though it says --

8 **A. I just endured a big day, as we're all**
9 **here to testify and talk about. And so it was very**
10 **difficult for me to just roll right back -- the**
11 **show must go on. I didn't feel the show must go**
12 **on. I felt it wasn't right. And I couldn't focus**
13 **on our next event so soon after this had happened.**

14 **Q.** So as a result, you went to Dr. Simone;
15 correct?

16 **A. Okay.**

17 **Q.** He prepared a letter on October 19th,
18 2009; correct?

19 **A. Okay.**

20 **Q.** He addressed it, to whom it may concern?

21 **A. Okay.**

22 **Q.** And it says that it's unclear when she
23 will be medically ready to go back to work;
24 correct?

25 **A. That's what it says.**

1 Q. Then it says she will be pursuing other
2 evaluation and treatment options; correct?
3 A. Yes. That's what it says.
4 Q. What other evaluation and treatment
5 options did you pursue?
6 A. Actually, none. And if you talk to the
7 workers' comp, when they called me, I denied it. I
8 did not file the claim. I went through the motions
9 as what Megan put together. And when they called
10 me, I said, you know what. I do not want to pursue
11 this.
12 Q. You realize you're under oath?
13 And I'm putting up Exhibit 785.
14 A. I said I went through the motions as
15 Megan put together. If you call workers'
16 compensation, you will know that I told them --
17 MR. KELLY: Judge, there's no question before
18 the witness. I ask that all that be stricken.
19 THE COURT: The last response will be
20 stricken.
21 And, Mr. Kelly, ask a question.
22 And, again, the witness will answer in an
23 appropriate fashion.
24 Q. BY MR. KELLY: Is that your signature,
25 ma'am, on 785?

1 A. Yes.
2 Q. 785. Does it say Melinda Martin --
3 A. Yes.
4 Q. -- October 29th, 2009?
5 A. Yes. I did go through the motions. Yes.
6 Initially.
7 Q. Does it say the address and description
8 where injury happened?
9 A. Yes.
10 Q. Angel Valley Retreat Center, Sedona,
11 Arizona; correct?
12 A. Correct.
13 Q. Paragraph 6. Describe injury and part of
14 body affected. Handwritten in is trauma associated
15 with sweat lodge injuries and death; correct?
16 A. Correct.
17 Q. It has your signature and your social
18 security number; correct?
19 A. That's right.
20 Q. And then Megan witnesses it; correct?
21 A. Correct.
22 Q. And going back to 786, ten days prior to
23 that, there's a letter from Dr. Simone that we
24 discussed?
25 A. Correct.

1 Q. And it says you're going to be pursuing
2 other evaluation and treatment options; correct?
3 A. That's what it says in the letter. Yes.
4 Q. Then, Ms. Martin, on November 9th, 2009,
5 you received notification that your workers'
6 compensation benefits were delayed because of a
7 need to conduct an investigation into your claim;
8 correct?
9 A. No. They did not say that. They told me
10 they wanted to come out and talk to me. I said I
11 wasn't going to go forward with it.
12 MS. POLK: Your Honor, the state would request
13 this be marked as an exhibit and admitted.
14 THE COURT: Mr. Kelly?
15 MR. KELLY: Judge, I have no objection to
16 that. Again, I'd request your indulgence when you
17 make a copy of the highlighted ones.
18 THE COURT: We'll do that and get a
19 description of the -- 787.
20 Q. BY MR. KELLY: We're going to come back
21 to that, Ms. Martin. You never received any
22 workers' comp benefits; is that correct?
23 A. That's correct.
24 Q. You appeared on ABC News in October --
25 excuse me -- December 8th and 9th, 2009; correct?

1 A. Well, they taped me one day and they used
2 it for whatever day. I don't know when they aired
3 it. I only worked with them.
4 Q. You were interviewed by Gary Tuchman,
5 Anderson Cooper, on December 14th, 2009; correct?
6 A. Yes.
7 Q. When did you start this new job in
8 New York?
9 A. What new job?
10 Q. I thought you told us you were employed
11 with a real estate company in New York.
12 A. I think I testified that it was four
13 months ago that I started working with this real
14 estate company or something like that.
15 Q. Ma'am, do you believe that in this
16 matter, which is alleging homicide, that some type
17 of sarcasm is appropriate?
18 A. No. But I --
19 Q. Here's my question --
20 MS. POLK: Objection.
21 THE COURT: Sustained.
22 Q. BY MR. KELLY: Here is my question: When
23 did you start your job in New York?
24 A. I started working in New York, probably
25 March.

1 Q. So you were medically capable of
2 beginning work in March of 2011?
3 A. No. That was when I was able to get
4 myself moved there and start my new life.

5 MR. KELLY: Your Honor, I believe we have an
6 agreement that Exhibit 787 is admitted.

7 THE COURT: 787 is admitted by stipulation.
8 (Exhibit 787 admitted.)

9 MR. KELLY: May I publish?

10 THE COURT: You may.

11 Q. BY MR. KELLY: Earlier, Ms. Martin, I
12 asked you whether you received notice as to your
13 workers' comp claim. And that notice said that
14 your workers' compensation benefits are being
15 delayed because we need to conduct an investigation
16 into your allegations of work-related stress. Do
17 you recall that question?

18 A. Well --

19 Q. Do you recall the question?

20 A. Yeah. I recall you asked me that.

21 Q. And is that not what 787 says?

22 A. Because that wasn't a high priority for
23 me, so I wasn't going after --

24 THE COURT: Ms. Martin, I'm going to direct
25 that you answer the attorney's questions.

1 THE WITNESS: Okay.

2 Q. BY MR. KELLY: Did I read that sentence
3 correctly? You want me to read it again?

4 A. Yes. Please.

5 Q. On November 9th, 2009, you received
6 notification from the Hartford Insurance Group:
7 Dear Melinda Martin, second paragraph, workers'
8 compensation benefits are being delayed because we
9 will need to conduct an investigation into your
10 allegations of work-related stress. Correct?

11 A. Correct.

12 Q. And then you dropped your claim; correct?

13 A. At some point, yeah. I mean, yeah.

14 Q. Now, back on October 9th of 2009, you
15 were never in the sweat lodge; correct?

16 A. Correct.

17 Q. You didn't go to the hospital to treat a
18 personal medical condition, did you?

19 A. No. I went to the hospital to visit the
20 people.

21 Q. Do you have difficulty understanding my
22 questions? This is going to go a lot faster if you
23 just answer.

24 A. Okay.

25 Q. Did you go to the hospital because you

1 were suffering a medical condition?

2 A. No.

3 Q. Were you in the sweat lodge?

4 A. No.

5 Q. People in the sweat lodge died; correct?

6 A. Yes.

7 Q. Other people were injured; correct?

8 A. Correct.

9 Q. And at the beginning of this conversation
10 with you on cross-examination, I asked you about
11 exaggeration and the fact that you told or --
12 excuse me -- that you told Detective Edgerton that
13 the EMS people said, what's going on here.

14 You agreed with that; correct?

15 A. Yes.

16 Q. And then on December 9th of 2009, ABC
17 News, you said the paramedics arrived. They came
18 in. The guy's, like, what happened here, a mass
19 suicide? Question mark. You said, no. A sweat
20 lodge gone wrong; correct?

21 A. Yes.

22 Q. And that's an exaggeration; correct?

23 A. I don't know. There were more than one
24 EMT talking to me.

25 Q. On Anderson Cooper on June 14th, 2010,

1 you stated it was like an absolute M.A.S.H. unit,
2 helicopters coming down -- you know -- well, he
3 came out, the helicopters weren't there. But at
4 that time, it was still bodies every where, passed
5 out; correct?

6 A. Correct.

7 Q. That's an exaggeration; correct?

8 A. No.

9 Q. And take two simple exhibits, ma'am,
10 Exhibit 553, picture of a helicopter.

11 A. Uh-huh.

12 Q. Exhibit 557, picture of a helicopter;
13 correct?

14 A. Uh-huh.

15 Q. It's the same helicopter; correct?

16 A. I don't know. Maybe.

17 Q. You told this jury there were four
18 helicopters. I have a picture of one helicopter;
19 correct?

20 A. I knew four people were air-flighted. I
21 didn't know how many helicopters. I said I didn't
22 know.

23 Q. Do you understand the difference between
24 testifying objectively, fairly, and truthfully to
25 this jury versus exaggeration?

1 **A. I'm doing the best I can.**
 2 **Q.** And when you use terms such as a
 3 "M.A.S.H. unit", "mass suicide" --
 4 **A. It was like a M.A.S.H. unit.**
 5 **Q.** M.A.S.H. unit? Military Army surgical
 6 hospital? M.A.S.H. unit? Mass suicide? Would you
 7 agree with me that that sensationalizes what
 8 happened?
 9 **A. I didn't say that. I didn't say that it**
 10 **was -- that was my opinion about it being a mass**
 11 **suicide. One of the EMT asked me that.**
 12 **Q.** Ma'am, these were quotes attributed to
 13 you by ABC News and CNN.
 14 **A. Okay.**
 15 **Q.** Your statements.
 16 **A. Right.**
 17 MS. POLK: Your Honor, pursuant to 613, I
 18 would ask for a copy of this document that
 19 Mr. Kelly continues to read from.
 20 THE COURT: Mr. Kelly, if it's a statement and
 21 you're going through a statement, then it needs to
 22 be provided to counsel at this time, not the
 23 witness, the counsel.
 24 MR. KELLY: Judge, again, I believe I have an
 25 obligation to cross-examine, but I don't have a

1 problem with her having a copy.
 2 THE COURT: 613 requires the content of the
 3 writing be provided.
 4 MR. KELLY: May I continue with the
 5 cross-examination then provide a copy.
 6 THE COURT: Ms. Polk is entitled to one at
 7 this point.
 8 MR. KELLY: May I continue, Judge?
 9 THE COURT: Yes, you may.
 10 **Q.** BY MR. KELLY: I'm going to ask you to
 11 count up the number of JRI employees present during
 12 the October 2009 sweat lodge event.
 13 **A. You want me to count how many?**
 14 **Q.** Yes.
 15 **A. James, Megan, Josh, Taylor, Greg was**
 16 **there. I was there.**
 17 **Q.** And that is a total of six?
 18 **A. That I can think of offhand so far.**
 19 **Q.** Do you recall telling CNN, Mr. Tuchman,
 20 Anderson Cooper, that there might be 10 people
 21 indicted, and I don't know who those 10 people
 22 might be?
 23 **A. Yeah. But I didn't know who they were.**
 24 **Somebody had told me that. It made no sense.**
 25 **Q.** And do you recall telling Detective

1 Edgerton that you're cooperating to the fullest,
 2 that you'd do anything to assist in the
 3 investigation?
 4 **A. Yeah. I thought it could have been Dream**
 5 **Team people that were being indicted.**
 6 **Q.** Ten people. You gave six. How many
 7 Dream Team?
 8 **A. I counted seven.**
 9 **Q.** Did you have any concern that you were
 10 going to be indicted because you were an employee
 11 whose responsibility was to ensure the Dream Team
 12 members were performing their duties?
 13 **A. That wasn't my role at that event.**
 14 **Q.** Did you have a concern you were going to
 15 be indicted?
 16 **A. I was willing to help in any way I could.**
 17 **But I --**
 18 **Q.** To avoid an indictment?
 19 **A. No. I was willing. I was concerned.**
 20 **Sure. I was there.**
 21 MR. KELLY: Judge, this would be a good time
 22 for a break, if possible.
 23 THE COURT: We'll do that.
 24 Ladies and gentlemen, we'll take the
 25 evening recess. Please remember the admonition.

1 And --
 2 MS. POLK: Your Honor, may counsel have a
 3 moment with the Court?
 4 THE COURT: Yes.
 5 Parties remain.
 6 Please remember the admonition. Be
 7 assembled at 9:15 tomorrow morning.
 8 Ms. Martin, you are also excused at this
 9 time. We will resume as soon as we can after 9:15.
 10 Parties will remain, please.
 11 (Proceedings continued outside presence
 12 of jury.)
 13 THE COURT: The jury has exited. Please be
 14 seated.
 15 Ms. Polk?
 16 MS. POLK: Your Honor, a couple of things.
 17 The first thing is on Exhibit 785, the state would
 18 request that the Social Security number of Melinda
 19 Martin be redacted.
 20 THE COURT: Mr. Kelly?
 21 MR. KELLY: No objection.
 22 THE COURT: So ordered.
 23 MS. POLK: Secondly, the state would
 24 request --
 25 MR. KELLY: Sorry for interrupting. Probably

1 should delete her address as well.

2 THE COURT: Whatever --

3 MS. POLK: Your Honor, she no longer lives at
4 the address. I don't think the address need to be.
5 I do believe the Social Security number should be
6 redacted.

7 THE COURT: That will be redacted, the Social
8 Security number.

9 MS. POLK: The state would request that the
10 charts that counsel has drawn on the easel, that
11 they be preserved. I don't want them admitted as
12 evidence, but I do request that they be preserved.

13 THE COURT: All right. They will be.

14 MR. KELLY: Judge, I have no objection marking
15 for identification.

16 THE COURT: Mr. Kelly, I want to get input.
17 When something is produced and there is a request,
18 I will preserve it for the record, who requests
19 that.

20 MS. POLK: Your Honor, the concern I have is
21 that the discovery violations by defense counsel
22 continue. In cross-examining this witness, the
23 counsel has used a contract, the event coordinator
24 position contract. He gave me a copy but it has
25 not been admitted or marked as an exhibit.

1 The correspondence with the -- with
2 Hartford. It's been marked as Exhibit 787, and
3 then finally Exhibit 785. None of these were
4 provided to the state at any time, as Rule 15.2
5 requires.

6 And again, 15.2 requires that any
7 exhibits that counsel intends to use be provided.
8 These three documents are not -- do not contain
9 inconsistent statements. These are not statements
10 by the witness. They were not used in that fashion
11 as an inconsistent statement.

12 The Court has noted -- the Court's belief
13 that there is an exception for documents that
14 contain inconsistent statements. This is not what
15 these were used for. They were not used to provide
16 an inconsistent statement. They are being used
17 against this witness. They were not provided to
18 the state.

19 Again, these discovery violations that
20 continue and put the state in a position of
21 surprise where we don't know this evidence.

22 The problem, Your Honor, is it's a
23 violation of rules. Arizona is not a
24 trial-by-surprise state, and the state has no
25 opportunity, then, in conducting direct examination

1 of these witnesses to use these exhibits or to draw
2 the sting if the state felt so necessary.

3 I would request that the Court order
4 defense counsel to provide to the state immediately
5 all documents that they intend to use during this
6 trial in any fashion.

7 THE COURT: Mr. Kelly, before I make a
8 comment -- go ahead.

9 MR. KELLY: Judge, we went through this
10 yesterday with Mr. Li. I would simply incorporate
11 his argument. All we need is a good-faith basis to
12 ask a question on cross-examination to impeach the
13 credibility of a witness.

14 We have to have a good-faith basis. I
15 can't just make up, hey, did you file a workers'
16 compensation claim. I have that in my notebook.
17 I'm not required to disclose that to the state of
18 Arizona under Rule 15 because it's not evidence.

19 In fact, proving up -- I'm stuck with her
20 answer. Proving up with extrinsic evidence is what
21 the rules of evidence prohibit. The government's
22 got this backwards.

23 And finally, Judge, I'd add the common
24 sense argument that this is their witness. They
25 can interview her. They served a search warrant on

1 my client's office and all these documents.

2 But I don't think it's even necessary to
3 go there. Because when I prepare for
4 cross-examination I'm entitled to ask a question as
5 long as I have a good-faith basis. And I have to
6 have that good-faith basis.

7 THE COURT: Doesn't happen often in trials,
8 but there come times when a prove up is required
9 for the good-faith basis. And that's when a person
10 needs to ask a question is the prove up.

11 And, Ms. Polk, you requested that these
12 documents actually be placed into evidence, and
13 then Mr. Kelly agreed and stipulated to do that.

14 I think the problem arises when,
15 essentially, there is so much testifying from a
16 document, it's the same as if it's been admitted,
17 as opposed to just questioning from it and reading
18 from it.

19 As I've indicated, these kinds of
20 questions do not come up that often. But that's
21 the basic principle. A person has to have a
22 good-faith basis for a cross-examination question.
23 If the person is called on it, if you want to put
24 it that way, there has to be a prove up available
25 to the other party.

1 As I've said, that's so seldom that that
2 arises, but it's coming up in this case. And it
3 came up with regard to the photograph of the
4 person. Can't think of her name. But it was
5 several hours after the event. And it was to show
6 a different condition, perhaps, than what was
7 testified to.

8 As far as using the exhibit, I think that
9 would be a disclosure violation. I think Osborn
10 makes very clear the difference between real
11 evidence -- I think that's how they phrase it --
12 and statements. Statements are covered under 613.
13 So we're in this kind of area that's just not
14 completely clear.

15 MS. POLK: Your Honor, I'd like to respond to
16 that, because there's a difference between
17 statements under 613 and what counsel has used
18 today.

19 THE COURT: I agree with that. That's what
20 I'm saying. I used the photograph as the example.
21 That very clearly -- that's not a statement. 613
22 does not apply to that photograph. And I ruled
23 that it could not be an exhibit.

24 These are not statement either. These
25 are other documents from other agencies. And I

1 understand that.

2 But what's your position on asking -- if
3 you have a good-faith basis to ask a question,
4 where do you draw the line between that and then
5 when you're really getting into where extrinsic
6 evidence is improperly being offered because it
7 never was properly disclosed under Rule 15? That's
8 the issue.

9 MS. POLK: Well, first of all, I'm not sure
10 where this rule that says if you have a good-faith
11 basis, you can just start reading from exhibits to
12 a witness without having given it to the other
13 side.

14 Rule 15.2(c) is clear, Your Honor. And
15 it says that the defense must provide to the state
16 a list of all papers, documents, photographs, and
17 other tangible objects that the defendant intends
18 to use at trial. It does not say that the
19 defendant intends to mark it as an exhibit and
20 admit. If you intend to use it, then you have to
21 provide it.

22 The problem is, Your Honor, the state has
23 provided to defense everything we have, everything
24 we have on a witness. Everything is provided. The
25 defense has provided to the state virtually nothing

1 and with witness after witness continues to
2 suddenly come up with documents that they read
3 from. They are not statements of these witnesses,
4 and we don't have them. They haven't been provided
5 to us.

6 That's not what's intended by these
7 rules. That's clearly in violation of these rules,
8 and that's not how trials in Arizona are practiced.
9 This isn't gamesmanship. This is a search for the
10 truth.

11 Arizona rules clearly require that the
12 parties provide to one another all the documents,
13 all the papers, we intend to use at trial so that
14 we can have a verified search for the truth and not
15 this gamesmanship of surprise with documents that
16 are not under 613 as prior statements.

17 These are -- I have in front of me four
18 different documents that counsel used today in
19 questioning this witness, not her statements, and
20 never provided to the state.

21 THE COURT: The photograph I had no problem
22 with. I agree -- and that's -- that was the
23 ruling. The photograph could not come in.

24 The second time the issue arose had to do
25 really with the complaint. And that was that

1 question of there were factual averments in the
2 nature of the statement. But then everybody got
3 into all other aspects of the complaint.

4 Part of that was, in fact, a statement.
5 But then it came in also as additional evidence,
6 and there was questioning from it. This is really
7 the third time it has come up. And it has come up
8 repeatedly. And this is the third time we've had
9 this, Mr. Kelly.

10 Your expression, I don't know what you
11 mean by that. This is an unusual situation. And
12 if you will notice the rule that Ms. Polk read,
13 doesn't say any exhibits you're going to admit at
14 trial. It talks about a document you're going to
15 use at trial.

16 And when the document's out and about and
17 being quoted from, that's being used at trial. And
18 why would that be excepted from the disclosure
19 rules?

20 MR. KELLY: Your Honor, if I might point out
21 how this disingenuous this arguments is from the
22 State of Arizona.

23 First of all, they accuse us of
24 gamesmanship. The Constitution's at play here. My
25 client is entitled to due process and a fair trial

1 and attorneys who are prepared to cross-examine.

2 And the rule is as long as we have a
3 good-faith basis to ask a question to impeach the
4 credibility of a witness. That's the rule.

5 Secondly, the reason it's disingenuous is
6 because I know in this county -- I've been on the
7 other side of this coin. State v. Scott Bryan with
8 Dr. Karen Bryce. When a prosecutor from Yavapai
9 County stood up with transcripts of her prior
10 testimony and documents relating to the Great Ghost
11 Investigation Company that she maintained out of
12 Albuquerque, New Mexico, without disclosure,
13 arguing exactly what I'm arguing.

14 And more recently, State v. Eric Bodet,
15 when Mark Ainley, an employee of Ms. Polk, stood up
16 with a complaint filed by my client that I was not
17 aware of, made the identical argument that I'm
18 making today. That's why I believe it's
19 disingenuous.

20 THE COURT: As I said, I never had this arise
21 to this level where we're actually getting to the
22 point of a good-faith basis for a question. The
23 prove up has been provided, and the state's saying,
24 no. You're using this under Rule 15 and
25 improperly. And Mr. Kelly is raising an argument

1 that that's how it's done here.

2 Ms. Polk, what about that? Do you
3 dispute those other instances?

4 MS. POLK: Your Honor, I know nothing of those
5 other instances. I don't know what he's talking
6 about. But I dispute the notion that these rules
7 contemplate trials by surprise.

8 This is a bright-line rule that says the
9 parties provide to each other all papers and all
10 documents you intend to use at trial. That's how I
11 have always practiced, and that's how the state has
12 handled this case.

13 We provided everything we have, and as
14 the Court and defense knows, as we continue to come
15 upon new evidence, we continue to send it over to
16 them very timely.

17 What has happened here today, for
18 example, is Exhibit 786, which is the letter from
19 Dr. Simone, suddenly Mr. Kelly is asking her -- he
20 asked her a question about it. I don't even have
21 the document. He asked her what I believe was a
22 misleading question suggesting that this letter
23 said something that it did not have.

24 The state doesn't have it. I'm not even
25 in a position to make an objection, not knowing

1 what document he's reading from and whether or not
2 he has quoted from it correctly.

3 I go back to Rule 15.2(c), which is very
4 clear. It's a very clear rule. If you're going to
5 use documents, papers, in this trial, provide it to
6 the other side.

7 THE COURT: I think this came up in another
8 context, Mr. Kelly, about the rules and a statement
9 as to how trials may commonly proceed in this
10 jurisdiction. That's one thing. And it's another
11 thing when a person says but here are the rules.

12 So your response was you may think it's
13 disingenuous. But let's talk about the disclosure
14 rule. If a document is going to be used at trial,
15 it has to be disclosed. Let's talk about the rule.
16 Ms. Polk is asserting the rule. And in this trial
17 that's what's going to be addressed.

18 MR. KELLY: Judge, I respectfully submit that
19 entirely guts the rule on cross-examination about a
20 good-faith basis and not proving up the position
21 with extrinsic evidence. Why does that rule even
22 exist?

23 And Judge, there's another important
24 distinction. And it is that my client enjoys
25 rights that the government does not. He's

1 protected by the Constitution. What we're talking
2 about is an age-old principle of trial practice
3 that exceeds far beyond the boundaries of Yavapai
4 County.

5 And I don't -- Mr. Li or Ms. Do, we do
6 not have to disclose our cross-examination outline
7 to the government. And if they're not diligent
8 enough to ask the right question of their witness
9 and prepare her testimony for trial, then why would
10 I assist the State of Arizona in convicting my
11 client?

12 And finally, Judge, they executed a
13 search warrant. They have all the powers that the
14 government enjoys in terms of gathering evidence.
15 And they executed search warrants on his office.
16 And these documents are in there.

17 Judge, I guess what Mr. Li and Ms. Do and
18 I are asking is, is the clear ruling of this Court
19 today that we have to disclose all the materials
20 we're going to use on cross-examination?

21 THE COURT: I don't believe any ruling has
22 been made on this. This last matter was taken care
23 of by stipulation. The exhibits are in by
24 stipulation. So that's what I'm dealing with right
25 now.

1 I'm saying, if it's going to come up in
2 the future, I want to see the law. I want to see
3 how the law takes the -- and handles the interplay
4 between the good-faith basis and cross-examination
5 with a good-faith basis. I want to see that
6 interplay with --

7 The disclosure rule says that if you're
8 going to use a document, in other words, get up
9 there and read something exactly off a document and
10 use it, how that -- how those two relate.

11 So I haven't made any ruling on that.
12 And I haven't had anybody give me any law other
13 than quote the rule, the rule of disclosure. And
14 it also discusses the general common law principle
15 about good-faith basis. And I guess people can go
16 back and read Ephraim Tutt. There's a good
17 discussion in there about good-faith basis for a
18 question on cross-examination.

19 And that's all I've heard, the two
20 general principles with how in Arizona those might
21 be reconciled. But right now, everything except
22 that initial photograph, which has, essentially,
23 been taken care of through stipulation -- although,
24 I did force a stipulation with regard to the
25 complaint when that came up with the previous

1 witness.

2 Ms. Polk.

3 MS. POLK: Your Honor, having these exhibits
4 admitted during the testimony of a witness as a
5 resolution is not acceptable. The rules require
6 that documents that the defense intends to use be
7 timely provided to the state in advance of trial,
8 not during the testimony of a witness.

9 THE COURT: Ms. Polk, you asked that they be
10 admitted.

11 MS. POLK: Judge, I wanted them admitted. But
12 I'm requesting that the defense give to the state
13 all documents and papers they intend to use
14 throughout the remainder of this trial in advance.
15 It is not satisfactory to learn about it during the
16 examination of a witness after I've already done my
17 direct examination.

18 The purpose of this rule is clear.
19 Rule 15 is about providing the documents you intend
20 to use at trial in advance of trial, not during the
21 testimony of a witness. I'm not -- I have no
22 problem with those exhibits admitted. I requested
23 that. But from this point forward, I'm requesting
24 that the defense comply with Rule 15.2 and provide
25 to the state all the documents they intend to use

1 or that this Court, pursuant to the rules, preclude
2 them from using any documents that they're not
3 going to comply with Rule 15.2.

4 And, Your Honor, there is a way to read
5 these rules in harmony. There's two rules we're
6 talking about. The disclosure rules, about
7 documents you intend to use, a party intends to
8 use. And then there is Rule 613, which is very
9 limited. Rule 613 only applies to prior statements
10 of the witness who is testifying.

11 None of these four documents used by
12 Mr. Kelly fall under 613. One is a letter from a
13 doctor. One is the contract with JRI. One is
14 correspondence from the workers' comp, and then the
15 other is this workers' comp application.

16 These are not prior statements of that
17 witness. These are all documents that the defense
18 had well in advance, had planned to use in the
19 examination of this witness and simply did not
20 provide it to the state in a timely fashion as is
21 required by 15.2.

22 There is actually a remedy under 15, I
23 believe it's 15.7. And the Court can preclude them
24 from using these records or impose other sanctions.

25 The state's requesting from this point

1 forward that any documents that they intend to use
2 in examining the witnesses, unless it falls under
3 the Rule 613 exception, that it be provided to the
4 state, just as the state has provided all of our
5 documents to the defense.

6 THE COURT: Ms. Polk, I think you've gone
7 through it three times. I understand that the
8 Osborn case and 613 are not going to relate to the
9 three or four -- the three exhibits you've
10 discussed there. I completely understand that.

11 MR. KELLY: Judge, I just want to bring out
12 two very simple points. First of all, none of the
13 cross-examination engaged in by Ms. Do, Mr. Li, or
14 myself involved anything but truthful statements
15 and documents.

16 The second is, that given the obligation
17 of Brady and Kyle, it begs the question why didn't
18 the government disclose the fact that Melinda
19 Martin had filed a workers' comp claim with the
20 allegations as to the psychological trauma
21 suffered? It's their witness. I believe it's a
22 little more complex.

23 And the other thing, Judge, is -- you
24 know -- I have documents here. Because I go home
25 and prepare for the cross-examination of the next

1 day's witnesses after I hear the direct
2 examination. And of course, the internet is a
3 wonderful tool in that regard.

4 And I can't believe that the government
5 is going to take the position that I'm not able to
6 do that, that I can't Google Melinda Martin's name
7 and find out what she said to reporters. I will
8 respectfully submit that would be a reversible
9 error because I'm not able to represent Mr. Ray if
10 I have to give her the information.

11 THE COURT: You go right into that 613 Osborn
12 situation too, which is a different situation,
13 where Ms. Polk has made very clear not talking
14 about 613 and prior statements. We're talking
15 about --

16 MR. KELLY: She requested a copy of the
17 statements I was referring to as well during the
18 cross-examination of Ms. Martin.

19 THE COURT: But Ms. Polk does get the
20 statements. The witness doesn't get the
21 statements. But Ms. Polk has a right to get the
22 prior statements at the time of cross-examination.
23 The witness doesn't at that time.

24 Folks, the discussion is not helping me
25 on this point. I understand the positions.

1 Ms. Polk is saying it's clear under the rules that
2 this form of using that document and so,
3 essentially, it's a good-faith basis for a
4 question. The rule, long-standing rule, just
5 doesn't really apply in Arizona. You've got a
6 document around there that --

7 Mr. Kelly, I've made no ruling,
8 Mr. Kelly. Please.

9 MR. KELLY: Please. I just have to point out
10 other rules. So let's switch tables.

11 THE COURT: Why can't you let me finish what
12 I'm saying?

13 MR. KELLY: I'm just saying, that's not a rule
14 that's written in the rules of criminal procedure,
15 the rules of evidence.

16 THE COURT: I was summarizing her position.
17 And you're trying to crystallized this to see where
18 the argument is.

19 MR. KELLY: I apologize, Judge.

20 THE COURT: And she seems to be saying --
21 Ms. Polk seems to be saying that under Rule 15,
22 this good-faith basis for the question, that's just
23 superceded. If you're going to have a document
24 that you're using in some fashion to form that
25 cross-examination question, the state's entitled to

1 see that. There just is no room for surprise.

2 And it's not a matter of informal
3 prove-up that say, wait a minute. Where do you
4 have that basis for your question, and you go off
5 the record and say, well, here it is. It's
6 something I Googled. It's something I got from the
7 workers' comp people in California or whatever it
8 is.

9 And you're saying that the constitutional
10 rights of your client would supersede a disclosure
11 rule. And using a document means something other
12 than forming a question off it and perhaps quoting
13 from it or something.

14 I guess that's the positions of the
15 parties. I'm just trying to understand. Because
16 that's what I think has to be resolved. I don't
17 know that anybody has any more law other than just
18 reciting that.

19 MR. KELLY: Judge, we will look.

20 THE COURT: Okay. I've not made any ruling.
21 As I've said, everything except for the first
22 ruling, the first of the three, that was decided
23 on. That was my decision. And the other two,
24 essentially, resolved it in the documents being
25 admitted. And there is no present standing rule.

1 But at least I'm forewarned that this can arise.

2 Thank you.
3 (The proceedings concluded.)

1 STATE OF ARIZONA)
2 COUNTY OF YAVAPAI) ss. REPORTER'S CERTIFICATE

3

4 I, Mina G Hunt, do hereby certify that I
5 am a Certified Reporter within the State of Arizona
6 and Certified Shorthand Reporter in California.

7 I further certify that these proceedings
8 were taken in shorthand by me at the time and place
9 herein set forth, and were thereafter reduced to
10 typewritten form, and that the foregoing
11 constitutes a true and correct transcript.

12 I further certify that I am not related
13 to, employed by, nor of counsel for any of the
14 parties or attorneys herein, nor otherwise
15 interested in the result of the within action.

16 In witness whereof, I have affixed my
17 signature this 2nd day of April, 2011.

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MINA G. HUNT, AZ CR No. 50619
CA CSR No. 8335

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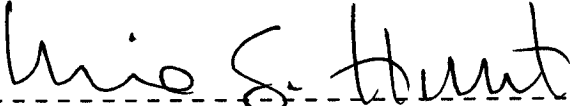
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